

Senate Bill No. 90

CHAPTER 70

An act to amend Sections 6377.1, 17053.73, 17059.2, 23626, and 23689 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 2013. Filed with
Secretary of State July 11, 2013.]

LEGISLATIVE COUNSEL’S DIGEST

SB 90, Galgiani. Economic development: taxation: credits: exemption.

Existing sales and use tax laws impose taxes 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, and provides various exemptions from those taxes.

Existing law exempts from those taxes, on and after July 1, 2014, and before January 1, 2019, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for use primarily in manufacturing, processing, refining, fabricating, or recycling of property, as specified; qualified tangible personal property purchased for use by a contractor for specified purposes, as provided; and qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development, as provided, and until January 1, 2021, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for those purposes for use within a designated census tract or a former enterprise zone. Existing law specifies that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, the Fiscal Recovery Fund, or the Local Revenue Fund 2011.

This bill would extend the application of the exemption from January 1, 2019, to July 1, 2022, and eliminate the requirement that, after January 1, 2019, the qualified tangible personal property purchased by a qualified person for those purposes for use within a designated census tract or a former enterprise zone.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including hiring credits within the specified economic development areas, and a hiring credit for

taxpayers, other than those allowed a credit with respect to operating in the specified economic development areas.

This bill would, under both laws for taxable years beginning on or after January 1, 2014, and before January 1, 2021, revise the definitions of “qualified full-time employee,” “qualified taxpayer,” and “small business” for the credit against those taxes for portions of the wages paid by a taxpayer, engaged in a trade or business within a designated census tract, as defined, or an economic development area, to certain full-time employees who provide services for that taxpayer in connection with that trade or business. This bill would additionally expand the definition of “qualified wages” for qualified full-time employees within a designated pilot area, as provided.

Existing law also allows a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor’s Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credits allocated to taxpayers to a specified sum per fiscal year.

This bill would make specifications regarding the fiscal year allocation under these provisions of credit amounts and the taxable years for which the allocated amounts may be claimed as a credit allowed to taxpayers.

This bill would also restate the carryover period of certain tax credits that were amended by AB 93 of the 2013–14 Regular Session and the operation of existing law with respect to those carryover credits.

This bill would make the operation of its modifications and revisions contingent on the enactment of AB 93 of the 2013–14 Regular Session, as specified.

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

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

SECTION 1. Section 6377.1 of the Revenue and Taxation Code, as added by Section 6 of Assembly Bill 93 of the 2013–14 Regular Session, is amended to read:

6377.1. (a) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2022, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

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

manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

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

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1) or (2).

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

(b) For purposes of this section:

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

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

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

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

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

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

(B) Notwithstanding subparagraph (A), “qualified person” shall not include either of the following:

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

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

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

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

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

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

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

(B) “Qualified tangible personal property” shall not include any of the following:

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

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

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

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

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

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

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in

accordance with any instructions or regulations as the board may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the board upon request.

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

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

(e) (1) The exemption provided by this section shall not apply to either of the following:

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

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar (\$200,000,000) limitation described in subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is so purchased, removed, converted, or used, and the cost of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

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

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) No later than each March 1 next following a calendar year for which this section provides an exemption, the board shall provide to the Joint Legislative Budget Committee a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the department’s estimate for that same calendar year. If that total dollar amount taken is less than the estimate for that calendar year, the report shall identify options for increasing exemptions taken so as to meet estimated amounts.

(h) This section is repealed on January 1, 2023.

SEC. 2. Section 17053.73 of the Revenue and Taxation Code, as added by Section 13 of Assembly Bill 93 of the 2013–14 Regular Session, is amended to read:

17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “net tax,” as defined in Section 17039, in an amount calculated under this section.

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

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

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

employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph shall not apply to a small business.

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

(b) For purposes of this section:

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

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

(3) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

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

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

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

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

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

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

(8) “Economic development area” means either of the following:

(A) A former enterprise zone. For purposes of this section, “former enterprise zone” means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

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

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

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

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

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

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

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

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

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

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

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

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

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

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

(11) (A) “Qualified taxpayer” means a person or entity engaged in a trade or business within a designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages.

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

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

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

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

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

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

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

(aa) “Sexually oriented business” means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the

nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(ab) “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

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

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

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

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars (\$10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting “ten dollars (\$10) per hour or an equivalent amount for salaried employees” for “150 percent of the minimum wage.”

(II) For purposes of this clause:

(aa) “Designated pilot area” means an area designated as a designated pilot area by the Governor’s Office of Business and Economic Development.

(ab) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

(ac) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

(ad) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor’s Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor’s Office of Business and Economic

Development and shall not be subject to administrative appeal or judicial review.

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

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

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

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

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

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

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

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

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

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

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

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

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

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

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

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

(d) For purposes of this section:

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

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

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

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

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

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

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

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 23626.

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

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

(h) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

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

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

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

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

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

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

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

(m) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

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

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any

other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 3. Section 17059.2 of the Revenue and Taxation Code, as added by Section 18 of Assembly Bill 93 of the 2013–14 Regular Session, is amended to read:

17059.2. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The credit under this section shall be allocated by GO-Biz with respect to the 2013–14 fiscal year through and including the 2017–18 fiscal year. The amount of credit allocated to a taxpayer with respect to a fiscal year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

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

(B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.

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

(D) The extent of unemployment or poverty in the area according to the United States Census in which the taxpayer’s project or business is proposed or located.

(E) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities.

(F) The incentives available to the taxpayer in other states.

(G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.

(H) The overall economic impact in this state of the taxpayer’s project or business.

(I) The strategic importance of the taxpayer’s project or business to the state, region, or locality.

(J) The opportunity for future growth and expansion in this state by the taxpayer’s business.

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

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

(A) Terms and conditions that include the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period.

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

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

(b) For purposes of this section:

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

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

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

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding Section 19542:

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

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

(e) In the case where the credit allowed under this section exceeds the “net tax,” as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

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

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

(A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars (\$150,000,000) for the 2014–15 fiscal year, and two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive.

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

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

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, 23626, and 23689 to no more than seven hundred fifty million dollars (\$750,000,000) for either the current fiscal year or the next fiscal year.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriation, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars (\$0).

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

(3) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that may be allocated pursuant to this section shall be allocated to any one taxpayer.

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

(i) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

SEC. 4. Section 23626 of the Revenue and Taxation Code, as added by Section 33 of Assembly Bill 93 of the 2013–14 Regular Session, is amended to read:

23626. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “tax,” as defined by Section 23036, in an amount calculated under this section.

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

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

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

(C) This paragraph shall not apply to a small business.

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

(b) For purposes of this section:

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

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

(3) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

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

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

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

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

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

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

(8) “Economic development area” means either of the following:

(A) A former enterprise zone. For purposes of this section, “former enterprise zone” means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the

Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

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

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

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

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

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

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

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

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

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

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

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

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

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

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

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

(aa) “Sexually oriented business” means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(ab) “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

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

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

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

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars (\$10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of the minimum wage. For qualified full-time employees described in the preceding sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting “ten dollars (\$10) per hour or an equivalent amount for salaried employees” for “150 percent of the minimum wage.”

(II) For purposes of this clause:

(aa) “Designated pilot area” means an area designated as a designated pilot area by the Governor’s Office of Business and Economic Development.

(ab) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

(ac) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

(ad) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor’s Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor’s Office of Business and Economic Development and shall not be subject to administrative appeal or judicial review.

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

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

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

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

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

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

(iii) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the dollar amount specified in subparagraph (A) shall apply to the aggregate gross receipts of all taxpayers that are required to be or authorized to be included in a combined report.

(C) (i) "Small business" shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

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

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

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

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

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

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

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

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

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

(d) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (g) of Section 24416.20, without application of paragraph (7) of that subdivision, shall apply.

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

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, the social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

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

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the

Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

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

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 17053.73.

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

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

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

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

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

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

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

as terminated if the employee continues to be employed in that trade or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

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

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

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

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

(l) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

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

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census

tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

SEC. 5. Section 23689 of the Revenue and Taxation Code, as added by Section 38 of Assembly Bill 93 of the 2013–14 Regular Session, is amended to read:

23689. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the “tax,” as defined in Section 23036, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The credit under this section shall be allocated by GO-Biz with respect to the 2013–14 fiscal year through and including the 2017–18 fiscal year. The amount of credit allocated to a taxpayer with respect to a fiscal year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

- (A) The number of jobs the taxpayer will create or retain in this state.
- (B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.
- (C) The amount of investment in this state by the taxpayer.
- (D) The extent of unemployment or poverty in the area according to the United States Census in which the taxpayer’s project or business is proposed or located.
- (E) The incentives available to the taxpayer in the state, including incentives from the state, local government and other entities.
- (F) The incentives available to the taxpayer in other states.
- (G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.
- (H) The overall economic impact in this state of the taxpayer’s project or business.
- (I) The strategic importance of the taxpayer’s project or business to the state, region, or locality.
- (J) The opportunity for future growth and expansion in this state by the taxpayer’s business.
- (K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

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

- (A) Terms and conditions that include the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period.
- (B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

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

(b) For purposes of this section:

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

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

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

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding Section 19542:

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

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

(e) In the case where the credit allowed under this section exceeds the “tax,” as defined in Section 23036, for a taxable year, the excess credit may be carried over to reduce the “tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

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

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 17059.2 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraph (D):

(A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars (\$150,000,000) for the 2014–15 fiscal year, and two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive.

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

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

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, 17059.2, and 23626 to no more than seven hundred fifty million dollars (\$750,000,000) for either the current fiscal year or the next fiscal year.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriation, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars (\$0).

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

(3) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that shall be allocated pursuant to this section may be allocated to any one taxpayer.

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

(i) (1) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall not restrict, broaden, or otherwise alter the ability of the taxpayer to assign that credit or any portion thereof in accordance with Section 23663.

(2) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section must comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

SEC. 6. (a) (1) For purposes of applying Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, and 23646 of the Revenue and Taxation Code, as amended by Assembly Bill 93 of the 2013–14 Regular Session, the revision of the carryover period of the credit under each of those sections to a period of 10 years applies to credits under those sections and carryovers of credits under those sections that are available for carryover to the taxable year beginning on or after January 1, 2014. The carryover period for hiring credits earned under Section 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of the Revenue and Taxation Code in taxable years beginning on or after January 1, 2014, is also 10 taxable years, beginning with the taxable year after the taxable year the credit is earned.

(2) Notwithstanding the repeal of Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, and 23646 of the Revenue and Taxation Code by amendments made by Assembly Bill 93 of the 2013–14 Regular Session, pursuant to subdivision (d) of Section 17039 of the Revenue and Taxation Code and subdivision (f) of Section 23036 of the Revenue and Taxation Code, any remaining carryover from a credit under those sections is allowed to be carried over under the provisions of those sections as they read immediately prior to the repeal.

(b) The Legislature finds and declares that, for purposes of proper implementation of the amendments made by Assembly Bill 93 of the 2013–14 Regular Session to Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, and 23646 of the Revenue and Taxation Code, this section does both of the following:

(1) Clarifies the changes made by Assembly Bill 93 of the 2013–14 Regular Session with respect to the carryover periods of each of those provisions of the Revenue and Taxation Code.

(2) Reiterates the application of existing law regarding the continuing availability of carryover credits after repeal of each of those provisions of the Revenue and Taxation Code.

SEC. 7. Section 1 of this bill that amends Section 6377.1 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, Section 2 of this bill that amends Section 17053.73 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, Section 3 of this bill that amends Section 17059.2 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, Section 4 of this bill that amends Section 23626 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, and Section 5 of this bill that amends Section 23689 of the Revenue and Taxation Code, as added by Assembly Bill 93 of the 2013–14 Regular Session, shall become operative only if Assembly Bill 93 of the 2013–14 Regular Session is chaptered and becomes operative. The effect and operation of Sections 1, 2, 3, 4, and 5 of this bill are subject to Section 47 of Assembly Bill 93 of the 2013–14 Regular Session.

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