

**Senate Bill No. 718**

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Passed the Senate August 13, 2014

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*Secretary of the Senate*

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Passed the Assembly August 11, 2014

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

An act to amend Section 51298 of the Government Code, and to amend Section 23636 of the Revenue and Taxation Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

SB 718, Roth. Capital investment incentive programs: corporation tax credit: new advanced strategic aircraft program.

(1) Existing law, until July 1, 2015, authorizes a county, city and county, or city to establish a capital investment incentive program, pursuant to which the county, city and county, or city is authorized to pay a capital investment incentive amount, as defined, that does not exceed the amount of property tax derived from that portion of the assessed value of a qualified manufacturing facility that exceeds \$25,000,000, to a proponent of a qualified manufacturing facility. Existing law defines a “proponent” as a party and requires a party to meet certain requirements, including that the party will be the fee owner of the qualified manufacturing facility upon the completion of that facility, as provided.

This bill would, until July 1, 2015, additionally authorize the party to be the lessee or the occupant under a government-owned contractor-operator enhanced use lease agreement of the qualified manufacturing facility upon the completion of that facility.

(2) Existing law, the Corporation Tax Law, for taxable years beginning on or after January 1, 2015, and before January 1, 2030, allows, with regard to the manufacture of a new advanced strategic aircraft for the United States Air Force, a credit against the taxes imposed under that law in an amount equal to 17½% of qualified wages, as defined, paid or incurred with respect to qualified full-time employees, as multiplied by an annual full-time equivalent ratio, by the qualified taxpayer, defined as a taxpayer that is a major first-tier subcontractor with regard to the manufacture of that aircraft.

This bill would define a qualified taxpayer to also include a prime contractor awarded a prime contract to manufacture a new advanced strategic aircraft for the United States Air Force. The

bill would limit this credit by providing that the aggregate number of total annual full-time equivalents, as defined, of all qualified taxpayers may not exceed 1,100.

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 51298 of the Government Code, as amended by Section 1 of Chapter 116 of the Statutes of 2014, is amended to read:

51298. It is the intent of the Legislature in enacting this chapter to provide local governments with opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries, such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others, to locate and invest in those facilities in California.

(a) Commencing in the 1998–99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after

the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) "Qualified manufacturing facility" means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars (\$150,000,000). Compliance with this subparagraph shall be certified by the Governor's Office of Business and Economic Development upon the director's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the Governor's Office of Business and Economic Development in writing in the time and manner as specified by the director.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by any of the following:

(i) A business described within Code 3359 or 3364 of the 2012 North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(iii) A business engaged in the manufacturing of parts or components related to the production of electricity using solar, wind, biomass, hydropower, or geothermal resources on or after July 1, 2010.

(D) The proponent is currently engaged in any of the following:

(i) Commercial production.

(ii) The perfection of the manufacturing process.

(iii) The perfection of a product intended to be manufactured.

(2) “Proponent” means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing facility would be located for a permit to construct a qualified manufacturing facility.

(B) The party will be the fee owner, lessee, or occupant under a government-owned contractor operator enhanced use lease agreement of the qualified manufacturing facility upon the completion of that facility. Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

(3) “Capital investment incentive amount” means, with respect to a qualified manufacturing facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue allocated to the participating local agency, which excludes the revenue transfers required by Sections 97.2 and 97.3 of the Revenue and Taxation Code, from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) that is in excess of twenty-five million dollars (\$25,000,000).

(4) “Manufacturing” means the activity of converting or conditioning 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.

(c) A city or special district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city or special district, but not the actual allocation, derived from the taxation of

that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) that is in excess of twenty-five million dollars (\$25,000,000).

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city, in each fiscal year, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars (\$2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a qualified manufacturing facility meeting the requirements of paragraph (1) of subdivision (b). If a proponent becomes ineligible to receive a capital investment incentive amount as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing facility. The plan shall specify the number of jobs to be created by that facility, and the

types of jobs and compensation ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing facility shall be covered by an employer-sponsored health benefits plan, with the exception of any employee who was offered but declined coverage due to other available group coverage.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing facility, who are not management or supervisory employees, shall be not less than the state average weekly wage.

For the purpose of this subdivision, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and

county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing facility has been rendered inoperable and beyond repair as a result of an act of God, civil disorder, failure of power, riots, insurrections, war, acts of terrorism, or any other causes, whether the kind herein enumerated or otherwise, not within the control of the qualified manufacturing facility claiming good cause, which restrict or interfere with a qualified manufacturing facility's ability to timely perform, and which by the exercise of reasonable due diligence, such party is or would have been unable to prevent or overcome.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the Governor's Office of Business and Economic Development of its election to do so no later than June 30th of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the Governor's Office of Business and Economic Development each fiscal year no later than June 30th of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing facility to whom the payments were made during that fiscal year.

(3) The Governor's Office of Business and Economic Development shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2000.

(f) This section shall become inoperative on July 1, 2015.

(g) A capital investment incentive program established pursuant to this section before the effective date of the act adding this subdivision may remain in effect for the full term of that program.

(h) This section is repealed on January 1, 2016.

SEC. 2. Section 51298 of the Government Code, as added by Section 2 of Chapter 116 of the Statutes of 2014, is amended to read:

51298. It is the intent of the Legislature in enacting this chapter to provide local governments with opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries, such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others, to locate and invest in those facilities in California.

(a) Commencing in the 1998–99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent’s payment of a community services fee.

(b) For purposes of this section:

(1) “Qualified manufacturing facility” means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars (\$150,000,000). Compliance with this subparagraph shall be certified by the Governor's Office of Business and Economic Development upon the director's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the Governor's Office of Business and Economic Development in writing in the time and manner as specified by the director.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by any of the following:

(i) A business described in Codes 3321 to 3399, inclusive, or Codes 541711 or 541712 of the 2012 North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(iii) A business engaged in the manufacturing of parts or components related to the production of electricity using solar, wind, biomass, hydropower, or geothermal resources on or after July 1, 2010.

(D) The proponent is currently engaged in any of the following:

(i) Commercial production.

(ii) The perfection of the manufacturing process.

(iii) The perfection of a product intended to be manufactured.

(2) "Proponent" means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing facility would be located for a permit to construct a qualified manufacturing facility.

(B) The party will be the fee owner of the qualified manufacturing facility upon the completion of that facility.

Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

(3) “Capital investment incentive amount” means, with respect to a qualified manufacturing facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue allocated to the participating local agency, which excludes the revenue transfers required by Sections 97.2 and 97.3 of the Revenue and Taxation Code, from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) that is in excess of one hundred fifty million dollars (\$150,000,000).

(4) “Manufacturing” means the activity of converting or conditioning 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.

(c) A city or special district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city or special district, but not the actual allocation, derived from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) that is in excess of one hundred fifty million dollars (\$150,000,000).

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city, in each fiscal year, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars (\$2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a qualified manufacturing facility meeting the requirements of paragraph (1) of subdivision (b). If a proponent becomes ineligible to receive a capital investment incentive amount as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing facility. The plan shall specify the number of jobs to be created by that facility, and the types of jobs and compensation ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing facility shall be covered by an employer-sponsored health benefits plan, with the exception of any employee who was offered but declined coverage due to other available group coverage.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing

facility, who are not management or supervisory employees, shall be not less than the state average weekly wage. For the purpose of this subdivision, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing facility has been rendered inoperable and beyond repair as a result of an act of God, civil disorder, failure of power, riots, insurrections, war, acts of terrorism, or any other causes, whether the kind herein enumerated or otherwise, not within the control of the qualified manufacturing facility claiming good cause, which restrict or interfere with a qualified manufacturing facility’s ability to timely perform, and

which by the exercise of reasonable due diligence, such party is or would have been unable to prevent or overcome.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the Governor's Office of Business and Economic Development of its election to do so no later than June 30th of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the Governor's Office of Business and Economic Development each fiscal year no later than June 30th of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing facility to whom the payments were made during that fiscal year.

(3) The Governor's Office of Business and Economic Development shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2016.

(f) This section shall become operative on July 1, 2015.

SEC. 3. Section 23636 of the Revenue and Taxation Code is amended to read:

23636. (a) For each taxable year beginning on or after January 1, 2015, and before January 1, 2030, a qualified taxpayer shall be allowed a credit against the "tax," as defined in Section 23036, in an amount equal to 17½ percent of qualified wages paid or incurred by the qualified taxpayer during the taxable year to qualified full-time employees, subject to the limitations under subdivision (c).

(b) For purposes of this section:

(1) "Annual full-time equivalent" means either of the following:

(A) In the case of a qualified full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total

number of hours worked for the qualified taxpayer by the qualified full-time employee, not to exceed 2,000 hours per employee, divided by 2,000.

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

(2) “Qualified full-time employee” means an individual that is employed in this state by the qualified taxpayer and satisfies both of the following:

(A) The individual’s services for the qualified taxpayer are performed in this state and are at least 80 percent directly related to the qualified taxpayer’s prime contract or subcontract to design, test, manufacture property, or otherwise support production of property for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force.

(B) The individual is paid compensation from the qualified taxpayer that 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 paid a salary by the qualified taxpayer as compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code.

(3) “Qualified taxpayer” means any taxpayer that is either a prime contractor awarded a prime contract or a major first-tier subcontractor awarded a subcontract to manufacture property for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force. For purposes of this paragraph, the term “prime contractor” means a contractor that was awarded a prime contract for the manufacturing of a new advanced strategic aircraft for the United States Air Force. For purposes of this paragraph, the term “major first-tier subcontractor” means a subcontractor that was awarded a subcontract in an amount of at least 35 percent of the amount of the initial prime contract awarded for the manufacturing of a new advanced strategic aircraft for the United States Air Force.

(4) “Qualified wages” means wages paid or incurred by the qualified taxpayer during the taxable year with respect to qualified full-time employees that are direct labor costs, within the meaning of Section 263A of the Internal Revenue Code, relating to

capitalization and inclusion in inventory costs of certain expenses, allocable to property manufactured in this state by the qualified taxpayer for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force.

(5) “New advanced strategic aircraft for the United States Air Force” means a new advanced strategic aircraft developed and produced for the United States Air Force under the New Advanced Strategic Aircraft Program.

(6) “New Advanced Strategic Aircraft Program” means the project to design, test, manufacture, or otherwise support production of a new advanced strategic aircraft for the United States Air Force under a contract that is expected to be awarded in the first or second calendar quarter of 2015. “New Advanced Strategic Aircraft Program” does not include any contract awarded prior to August 1, 2014, and does not include a program to upgrade, modernize, sustain, or otherwise modify a current United States Air Force bomber program, including, but not limited to, the B-52, B-1, or B-2 programs.

(7) “Total annual full-time equivalents” means the number of a qualified taxpayer’s qualified full-time employees computed on an annual full-time equivalent basis for the taxable year.

(c) (1) The total aggregate amount of the credit that may be allowed to all qualified taxpayers pursuant to this section shall be as follows:

(A) In years one through five of the credit, the total aggregate amount of the credit that may be allowed to all qualified taxpayers pursuant to this section shall not exceed twenty-five million dollars (\$25,000,000) per calendar year.

(B) In years 6 through 10 of the credit, the total aggregate amount of the credit that may be allowed to all qualified taxpayers pursuant to this section shall not exceed twenty-eight million dollars (\$28,000,000) per calendar year.

(C) In years 11 through 15 of the credit, the total aggregate amount of the credit that may be allowed to all qualified taxpayers pursuant to this section shall not exceed thirty-one million dollars (\$31,000,000) per calendar year.

(2) The aggregate number of total annual full-time equivalents of all qualified taxpayers with respect to which a credit amount may be allowed under this section for a calendar year shall not exceed 1,100.

(3) (A) The Franchise Tax Board shall allocate the credit to the qualified taxpayers on a first-come-first-served basis, determined by the date the qualified taxpayer's timely filed original tax return is received by the Franchise Tax Board. If the returns of two or more qualified taxpayers are received on the same day and the amount of credit remaining to be allocated is insufficient to be allocated fully to each, the credit remaining shall be allocated to those qualified taxpayers on a pro rata basis.

(B) For purposes of this paragraph, the date a return is received shall be determined by the Franchise Tax Board. The determination of the Franchise Tax Board as to the date a return is received and whether a return has been timely filed for purposes of this paragraph may not be reviewed in any administrative or judicial proceeding.

(C) Any disallowance of a credit claimed due to the limitations specified in this subdivision shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that disallowance may be assessed by the Franchise Tax Board in the same manner as provided in Section 19051.

(4) The credit allowed under this section must be claimed on a timely filed original return.

(d) 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 seven succeeding years if necessary, until the credit is exhausted.

(e) A credit shall not be allowed unless the credit was reflected within the bid upon which the qualified taxpayer's prime contract or subcontract to manufacture property for ultimate use in or as a component of a New Advanced Strategic Aircraft Program is based by reducing the amount of the bid by a good faith estimate of the amount of the credit allowable under this section.

(f) All references to the credit and ultimate cost reductions incorporated into any successful bid that was awarded a prime contract or subcontract and for which a qualified taxpayer is making a claim shall be made available to the Franchise Tax Board upon request.

(g) If the qualified taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(h) (1) The Franchise Tax Board may prescribe regulations necessary or appropriate to carry out the purposes of this section.

(2) The Franchise Tax Board may also prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of 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.

(i) This section shall remain in effect only until December 1, 2030, and as of that date is repealed.

SEC. 4. 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, as soon as possible, further promote economic development in California related to the manufacture of property to be used for a new advanced strategic aircraft for the United States Air Force, and to authorize a local government to pay a related capital investment amount to a specified lessee or occupant of the qualified manufacturing facility upon the completion of that facility, it is necessary that this act take effect immediately.



























Approved \_\_\_\_\_, 2014

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*Governor*