

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2506

**Introduced by Assembly Member V. Manuel Pérez
(Coauthors: Assembly Members Fuentes, Galgiani, Logue, and
Nestande)**

(Coauthors: Senators Calderon, Strickland, and Vargas)

February 24, 2012

An act to amend Section 11346.1 of, ~~and~~ to add Article 5.5 (commencing with Section 11348.5) to Chapter 3.5 of Part 1 of *Division 3 of Title 2 of*, and to add Part 4.8 (commencing with Section 13999.7) to, Division 3 of Title 2 of, the Government Code, and to amend Sections 17052.12 and 23609 of, and to add Sections 6377, 17053.87, and 23687 to, the Revenue and Taxation Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2506, as amended, V. Manuel Pérez. State government.

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

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

(2) Existing law provides for the establishment of the California Travel and Tourism Commission as a nonprofit mutual benefit corporation, as specified.

This bill would provide for the establishment of 6 regional innovation and job creation boards as nonprofit mutual benefit corporations, to perform certain functions, and would require the Lieutenant Governor to appoint 12 members to each board, as specified. The bill would require that the staff of each board be employees solely of the commission.

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

On and after January 1, 2013, this bill would exempt from those taxes the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of tangible personal property, as specified.

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

This bill would, for taxable years commencing on and after January 1, 2013, increase the credit for research and development expenses, as provided, and would require taxpayers utilizing these credits on or after that date to report specified information to the Franchise Tax Board.

This bill would, for taxable years beginning on or after January 1, 2013, ~~authorize~~ *allow* a credit against those taxes for a qualified taxpayer, as defined, of 40% of the amount of a qualified ~~contract price that is paid to the qualified taxpayer~~ *contribution, as defined, made in that taxable year for a contract between* by a business entity ~~and to a postsecondary educational institution for the business entity to provide curriculum or research leading to job opportunities in the private sector, or consultation services associated with the establishment of curriculum or research leading to job opportunities in the private sector, where the business entity and the postsecondary educational institution agree that~~

there is a substantial potential for the future employment of students as a result of the ~~contract contribution~~.

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

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

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

3 SECTION 1.

4 SEC. 2. The Legislature hereby finds and declares:

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

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

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

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

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

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

30 ~~SEC. 2.~~

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

33 11346.1. (a) (1) The adoption, amendment, or repeal of an
34 emergency regulation is not subject to any provision of this article
35 or Article 6 (commencing with Section 11349), except this section
36 and Sections 11348.5, 11349.5, and 11349.6.

37 (2) At least five working days before submitting an emergency
38 regulation to the office, the adopting agency shall, except as
39 provided in paragraph (3), send a notice of the proposed emergency
40 action to every person who has filed a request for notice of

1 regulatory action with the agency. The notice shall include both
2 of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~SEC. 3.~~

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

1 Article 5.5. Legislative Review of Proposed Regulations

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

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

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

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

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

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

30 ~~SEC. 4.~~

31 *SEC. 5.* Part 4.8 (commencing with Section 13999.7) is added
32 to Division 3 of Title 2 of the Government Code, to read:

33
34 PART 4.8. INNOVATION AND JOB CREATION BOARDS

35
36 13999.7. The following innovation and job creation boards are
37 hereby established as nonprofit mutual benefit corporations, and
38 may apply for tax exempt status under Section 501(c)(3) of the
39 Internal Revenue Code, if otherwise eligible:

40 (a) The San Diego County Innovation and Job Creation Board.

- 1 (b) The Orange County Innovation and Job Creation Board.
- 2 (c) The Los Angeles *County* Innovation and Job Creation Board.
- 3 (d) The Silicon Valley (Santa Clara County) Innovation and
- 4 Job Creation Board.
- 5 (e) The Bay and South Bay Area (San Francisco, Alameda,
- 6 Contra Costa, and San Mateo Counties) Innovation and Job
- 7 Creation Board.
- 8 (f) The Central Valley (Stanislaus, Fresno, and Merced Counties)
- 9 Innovation and Job Creation Board.

10 13999.71. The Lieutenant Governor shall appoint the members
 11 of each board, which shall consist of the following:

- 12 (a) One startup entrepreneur representative.
- 13 (b) One representative of a mature industry.
- 14 (c) One biopharmaceutical or pharmaceutical industry
- 15 representative.
- 16 (d) One entertainment industry representative.
- 17 (e) One venture capital representative.
- 18 (f) One technology industry representative.
- 19 (g) One representative of a business incubator.
- 20 (h) One local government elected official.
- 21 (i) One small business representative.
- 22 (j) One transportation industry representative.
- 23 (k) One energy industry representative.
- 24 (l) One organized labor representative.

25 13999.72. Each board shall be a separate, independent
 26 California nonprofit mutual benefit corporation. The staff of each
 27 board shall be employees solely of the commission, and the
 28 procedures adopted by each board shall not be subject to the
 29 Administrative Procedure Act (Chapter 3.5 (commencing with
 30 Section 11340) of Part 1).

31 13999.73. The State of California and any of its officers, agents,
 32 or employees shall not be liable in any manner for any act or
 33 omission of the boards or of their directors, officers, agents, or
 34 employees.

35 13999.74. The boards are created to perform the following
 36 functions:

- 37 (a) Provide a local forum in which to exchange ideas regarding
- 38 the improvement of innovation, technology, and economic job
- 39 growth in their designated geographic areas.

1 (b) Provide ideas in the form of proposed legislation and local
2 ordinances that will improve job growth and development in their
3 designated areas.

4 (c) Assist in collecting data concerning economic growth and
5 development in their designated areas.

6 ~~SEC. 5.~~

7 *SEC. 6.* Section 6377 is added to the Revenue and Taxation
8 Code, to read:

9 6377. (a) (1) On and after January 1, 2013, there are exempted
10 from the taxes imposed by this part the gross receipts from the sale
11 of, and the storage, use, or other consumption in this state of
12 tangible personal property purchased for use by a qualified person
13 to be used primarily in any stage of the manufacturing, processing,
14 refining, fabricating, or recycling of tangible personal property,
15 beginning at the point any raw materials are received by the
16 qualified person and introduced into the process and ending at the
17 point at which the manufacturing, processing, refining, fabricating,
18 or recycling has altered property to its completed form, including
19 packaging, if required.

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

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

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

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

29 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (E) Tangible personal property used in recycling.

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

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

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

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

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

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

26 ~~SEC. 6.~~

27 *SEC. 7.* Section 17052.12 of the Revenue and Taxation Code
28 is amended to read:

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

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

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

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

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

8 (4) For each taxable year beginning on or after January 1, 2013,
9 and before January 1, 2014, the reference to “20 percent” in Section
10 41(a)(1) of the Internal Revenue Code shall not be modified.

11 (5) For each taxable year beginning on or after January 1, 2014,
12 and before January 1, 2015, the reference to “20 percent” in Section
13 41(a)(1) of the Internal Revenue Code is modified to read “25
14 percent.”

15 (6) For each taxable year beginning on or after January 1, 2015,
16 and before January 1, 2016, the reference to “20 percent” in Section
17 41(a)(1) of the Internal Revenue Code is modified to read “30
18 percent.”

19 (7) For each taxable year beginning on or after January 1, 2016,
20 and before January 1, 2017, the reference to “20 percent” in Section
21 41(a)(1) of the Internal Revenue Code is modified to read “35
22 percent.”

23 (8) For each taxable year beginning on or after January 1, 2017,
24 the reference to “20 percent” in Section 41(a)(1) of the Internal
25 Revenue Code is modified to read “40 percent.”

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

28 (d) “Qualified research” shall include only research conducted
29 in California.

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

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

1 (2) For each taxable year beginning on or after January 1, 1998,
2 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
3 Internal Revenue Code, relating to contract research expenses, is
4 modified to read “this part or Part 11 (commencing with Section
5 23001).”

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

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

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

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

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

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

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

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

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

36 (1) The last sentence shall not apply.

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

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

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

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

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

10 (m) For taxable years commencing on and after January 1, 2013,
11 a taxpayer utilizing a credit pursuant to this section shall report to
12 the Franchise Tax Board, in a separate line item, the following
13 information:

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

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

20 (A) Gross wages.

21 (B) Capital expenditures.

22 (C) Outside consultants and services.

23 ~~SEC. 7.~~

24 *SEC. 8.* Section 17053.87 is added to the Revenue and Taxation
25 Code, to read:

26 17053.87. (a) For each taxable year beginning on or after
27 January 1, 2013, there shall be allowed to a qualified taxpayer as
28 a credit against the "net tax," as defined in Section 17039, an
29 amount equal to 40 percent of the amount of a qualified ~~contract~~
30 ~~price that is paid to the~~ *contribution that is made by a qualified*
31 taxpayer in that taxable year.

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

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

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

3 (2) “Qualified taxpayer” means a business entity that ~~enters into~~
4 ~~a contract or memorandum of understanding with~~ *makes a qualified*
5 *contribution to* a postsecondary educational institution ~~to provide~~
6 ~~curriculum or research leading to job opportunities in the private~~
7 ~~sector, or consultation services associated with the establishment~~
8 ~~of curriculum or research leading to job opportunities in the private~~
9 ~~sector.~~

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

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

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

22 ~~SEC. 8.~~

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

25 23609. For each taxable year beginning on or after January 1,
26 1987, there shall be allowed as a credit against the “tax” (as defined
27 by Section 23036) an amount determined in accordance with
28 Section 41 of the Internal Revenue Code, except as follows:

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

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

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

35 (b) (1) For each taxable year beginning on or after January 1,
36 1997, and before January 1, 1999, both of the following
37 modifications shall apply:

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

- 1 (B) The reference to “20 percent” in Section 41(a)(2) of the
2 Internal Revenue Code is modified to read “24 percent.”
- 3 (2) For each taxable year beginning on or after January 1, 1999,
4 and before January 1, 2000, both of the following shall apply:
- 5 (A) The reference to “20 percent” in Section 41(a)(1) of the
6 Internal Revenue Code is modified to read “12 percent.”
- 7 (B) The reference to “20 percent” in Section 41(a)(2) of the
8 Internal Revenue Code is modified to read “24 percent.”
- 9 (3) For each taxable year beginning on or after January 1, 2000,
10 both of the following shall apply:
- 11 (A) The reference to “20 percent” in Section 41(a)(1) of the
12 Internal Revenue Code is modified to read “15 percent.”
- 13 (B) The reference to “20 percent” in Section 41(a)(2) of the
14 Internal Revenue Code is modified to read “24 percent.”
- 15 (4) For each taxable year beginning on or after January 1, 2013,
16 and before January 1, 2014, both of the following shall apply:
- 17 (A) The reference to “20 percent” in Section 41(a)(1) of the
18 Internal Revenue Code shall not be modified.
- 19 (B) The reference to “20 percent” in Section 41(a)(2) of the
20 Internal Revenue Code is modified to read “29 percent.”
- 21 (5) For each taxable year beginning on or after January 1, 2014,
22 and before January 1, 2015, both of the following shall apply:
- 23 (A) The reference to “20 percent” in Section 41(a)(1) of the
24 Internal Revenue Code is modified to read “25 percent.”
- 25 (B) The reference to “20 percent” in Section 41(a)(2) of the
26 Internal Revenue Code is modified to read “34 percent.”
- 27 (6) For each taxable year beginning on or after January 1, 2015,
28 and before January 1, 2016, both of the following shall apply:
- 29 (A) The reference to “20 percent” in Section 41(a)(1) of the
30 Internal Revenue Code is modified to read “30 percent.”
- 31 (B) The reference to “20 percent” in Section 41(a)(2) of the
32 Internal Revenue Code is modified to read “39 percent.”
- 33 (7) For each taxable year beginning on or after January 1, 2016,
34 and before January 1, 2017, both of the following shall apply:
- 35 (A) The reference to “20 percent” in Section 41(a)(1) of the
36 Internal Revenue Code is modified to read “35 percent.”
- 37 (B) The reference to “20 percent” in Section 41(a)(2) of the
38 Internal Revenue Code is modified to read ~~“44~~ “40 percent.”
- 39 (8) For each taxable year beginning on or after January 1, 2017,
40 both of the following shall apply:

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

3 (B) The reference to “20 percent” in Section 41(a)(2) of the
4 Internal Revenue Code is modified to read~~“49~~ “40 percent.”

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

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

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

20 (1) Basic research conducted outside California.

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

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

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

28 (e) (1) In the case of a taxpayer engaged in any
29 biopharmaceutical research activities that are described in codes
30 2833 to 2836, inclusive, or any research activities that are described
31 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
32 Industrial Classification (SIC) Manual published by the United
33 States Office of Management and Budget, 1987 edition, or any
34 other biotechnology research and development activities, the
35 provisions of Section 41(e)(6) of the Internal Revenue Code shall
36 be modified to include both of the following:

37 (A) A qualified organization as described in Section
38 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
39 institution of higher education as described in Section 3304(f) of
40 the Internal Revenue Code.

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

7 (2) For purposes of this subdivision:

8 (A) “Biopharmaceutical research activities” means those
9 activities that use organisms or materials derived from organisms,
10 and their cellular, subcellular, or molecular components, in order
11 to provide pharmaceutical products for human or animal
12 therapeutics and diagnostics. Biopharmaceutical activities make
13 use of living organisms to make commercial products, as opposed
14 to pharmaceutical activities that make use of chemical compounds
15 to produce commercial products.

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

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

27 (g) For each taxable year beginning on or after January 1, 1998,
28 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
29 Internal Revenue Code, relating to contract research expenses, is
30 modified to read “this part or Part 10 (commencing with Section
31 17001).”

32 (h) (1) For each taxable year beginning on or after January 1,
33 2000:

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

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

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

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

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

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

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

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

23 (1) The last sentence shall not apply.

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

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

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

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

38 (n) For taxable years commencing on and after January 1, 2013,
39 a taxpayer utilizing a credit pursuant to this section shall report to

1 the Franchise Tax Board, in a separate line item, the following
2 information:

3 (1) Total research and development expenditures made in the
4 tax year subject to the credit and the total research and development
5 expenditures not subject to the credit.

6 (2) For the total research and development expenditures subject
7 to the credit, a breakdown of the total amount of the credit
8 attributable to each of the following:

9 (A) Gross wages.

10 (B) Capital expenditures.

11 (C) Outside consultants and services.

12 ~~SEC. 9.~~

13 *SEC. 10.* Section 23687 is added to the Revenue and Taxation
14 Code, to read:

15 23687. (a) For each taxable year beginning on or after January
16 1, 2013, there shall be allowed to a qualified taxpayer as a credit
17 against the “tax,” as defined in Section 23036, an amount equal
18 to 40 percent of the amount of a qualified ~~contract price~~
19 *contribution* that is ~~paid to the~~ *made by a* qualified taxpayer in that
20 taxable year.

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

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

32 (2) “Qualified taxpayer” means a business entity that ~~enters into~~
33 ~~a contract or memorandum of understanding with~~ *makes a qualified*
34 *contribution to* a postsecondary educational institution ~~to provide~~
35 ~~curriculum or research leading to job opportunities in the private~~
36 ~~sector, or consultation services associated with the establishment~~
37 ~~of curriculum or research leading to job opportunities in the private~~
38 ~~sector.~~

39 (c) In the case where the credit allowed by this section exceeds
40 the “tax,” the excess may be carried over to reduce the “tax” in

1 the following taxable year, and succeeding taxable years if
2 necessary, until the credit is exhausted.

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

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

11 ~~SEC. 10.~~

12 *SEC. 11.* The provisions of this act are severable. If any
13 provision of this act or its application is held invalid, that invalidity
14 shall not affect other provisions or applications that can be given
15 effect without the invalid provision or application.

16 ~~SEC. 11.~~

17 *SEC. 12.* Notwithstanding Section 2230 of the Revenue and
18 Taxation Code, no appropriation is made by this act and the state
19 shall not reimburse any local agency for any sales and use tax
20 revenues lost by it under this act.