

AMENDED IN ASSEMBLY JULY 3, 2014

AMENDED IN ASSEMBLY APRIL 2, 2014

AMENDED IN ASSEMBLY MARCH 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1560

Introduced by Assembly Member ~~Gorell Quirk-Silva~~
(Coauthors: Assembly Members ~~Bigelow, Chávez, Donnelly,~~
~~Hagman, Harkey, Jones, Nestande, and Waldron~~)
(Coauthors: Senators ~~Berryhill, Cannella, Gaines, Huff, and Vidak~~)
(Principal coauthors: Assembly Members ~~Gorell, Linder, Muratsuchi,~~
~~Salas, and Wilk~~)

January 29, 2014

An act to ~~add Section 100509 to the Government Code, relating to health care coverage, amend Sections 17059.2 and 23689 of the Revenue and Taxation Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1560, as amended, ~~Gorell Quirk-Silva. California Health Benefit Exchange: confidentiality of personal information. Income taxes: credits: California Competes Tax Credit.~~

Existing law allows a credit against the taxes imposed under the Corporation Tax Law and the Personal Income Tax Law 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 reduce this aggregate amount of credits that may be allocated to taxpayers per fiscal year by the phased aggregate amount allowed to taxpayers pursuant to the credit proposed by Assembly Bill 2389 with regard to the manufacture of a new advanced strategic aircraft, and would also authorize the Director of Finance to increase the aggregate amount of the economic development credits that may be allocated to taxpayers each year by \$25 million per year through 2019. These provisions would become operative only if AB 2389 is enacted and becomes effective on or before January 1, 2015.

~~Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange by January 1, 2014, that makes available qualified health plans to qualified individuals and small employers. PPACA prohibits an Exchange from using or disclosing the personally identifiable information it creates or collects other than to the extent necessary to carry out specified functions. Existing law also requires an Exchange to establish and implement privacy and security standards that are consistent with specified principles and to require the same or more stringent privacy and security standards as a condition of contract or agreement with individuals or entities. A person who knowingly and willfully uses or discloses information in violation of PPACA is subject to a civil penalty of no more than \$25,000 per person or entity, per use or disclosure, in addition to any other penalties prescribed by law.~~

~~Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law requires the board to employ necessary staff and authorizes the board to enter into contracts. Under existing law, the board of the Exchange is required to submit fingerprint images to the Department of Justice for all employees, prospective employees, contractors, subcontractors, volunteers, or vendors of the Exchange whose duties include access to specified personal information for the purposes of obtaining state or federal conviction records, as specified.~~

~~This bill would prohibit the Exchange from disclosing an individual’s personal information, as defined, to 3rd parties for the purpose of determining eligibility for, or enrolling the individual in, health care coverage unless, prior to the disclosure, the individual confirms his or her eligibility for a qualified health plan offered by the Exchange, and receives an estimate for the cost of the qualified health plans he or she may purchase, and the Exchange obtains the individual’s written consent to the disclosure, as prescribed. The bill would also require the Exchange to immediately notify the public of any breach of the security of personal information created, collected, or maintained by the Exchange, regardless of the severity of the breach and regardless of whether personal information was acquired by an unauthorized person during the breach.~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 *SECTION 1. Section 17059.2 of the Revenue and Taxation*
 2 *Code is amended to read:*

3 17059.2. (a) (1) For each taxable year beginning on and after
 4 January 1, 2014, and before January 1, 2025, there shall be allowed
 5 as a credit against the “net tax,” as defined in Section 17039, an
 6 amount as determined by the committee pursuant to paragraph (2)
 7 and approved pursuant to Section 18410.2.

8 (2) The credit under this section shall be allocated by GO-Biz
 9 with respect to the 2013–14 fiscal year through and including the
 10 2017–18 fiscal year. The amount of credit allocated to a taxpayer
 11 with respect to a fiscal year pursuant to this section shall be as set
 12 forth in a written agreement between GO-Biz and the taxpayer and
 13 shall be based on the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) For purposes of this section:

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

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

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

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

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

- 1 (3) Provide the negotiated written agreement to the committee
2 for its approval pursuant to Section 18410.2.
- 3 (4) Inform the Franchise Tax Board of the terms and conditions
4 of the written agreement upon approval of the written agreement
5 by the committee.
- 6 (5) Inform the Franchise Tax Board of any recapture, in whole
7 or in part, of a previously allocated credit upon approval of the
8 recapture by the committee.
- 9 (6) Post on its Internet Web site all of the following:
- 10 (A) The name of each taxpayer allocated a credit pursuant to
11 this section.
- 12 (B) The estimated amount of the investment by each taxpayer.
- 13 (C) The estimated number of jobs created or retained.
- 14 (D) The amount of the credit allocated to the taxpayer.
- 15 (E) The amount of the credit recaptured from the taxpayer, if
16 applicable.
- 17 (d) For purposes of this section, the Franchise Tax Board shall
18 do all of the following:
- 19 (1) (A) Except as provided in subparagraph (B), review the
20 books and records of all taxpayers allocated a credit pursuant to
21 this section to ensure compliance with the terms and conditions
22 of the written agreement between the taxpayer and GO-Biz.
- 23 (B) In the case of a taxpayer that is a “small business,” as
24 defined in Section 17053.73, review the books and records of the
25 taxpayer allocated a credit pursuant to this section to ensure
26 compliance with the terms and conditions of the written agreement
27 between the taxpayer and GO-Biz when, in the sole discretion of
28 the Franchise Tax Board, a review of those books and records is
29 appropriate or necessary in the best interests of the state.
- 30 (2) Notwithstanding Section 19542:
- 31 (A) Notify GO-Biz of a possible breach of the written agreement
32 by a taxpayer and provide detailed information regarding the basis
33 for that determination.
- 34 (B) Provide information to GO-Biz with respect to whether a
35 taxpayer is a “small business,” as defined in Section 17053.73.
- 36 (e) In the case where the credit allowed under this section
37 exceeds the “net tax,” as defined in Section 17039, for a taxable
38 year, the excess credit may be carried over to reduce the “net tax”
39 in the following taxable year, and succeeding five taxable years,
40 if necessary, until the credit has been exhausted.

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

9 (g) (1) The aggregate amount of credit that may be allocated
10 in any fiscal year pursuant to this section and Section 23689 shall
11 be an amount equal to the sum of subparagraphs (A), (B), and (C),
12 less the amount specified in ~~subparagraph (D)~~ *subparagraphs (D)*
13 *and (E), and plus the amount specified in paragraph (f):*

14 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
15 year, one hundred fifty million dollars (\$150,000,000) for the
16 2014–15 fiscal year, and two hundred million dollars
17 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,
18 inclusive.

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

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

23 (D) The amount estimated by the Director of Finance, in
24 consultation with the Franchise Tax Board and the State Board of
25 Equalization, to be necessary to limit the aggregation of the
26 estimated amount of exemptions claimed pursuant to Section
27 6377.1 and of the amounts estimated to be claimed pursuant to
28 this section and Sections 17053.73, 23626, and 23689 to no more
29 than seven hundred fifty million dollars (\$750,000,000) for either
30 the current fiscal year or the next fiscal year.

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

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

3 (E) (i) For the 2015–16 fiscal year and each fiscal year
4 thereafter, the aggregate amount of credit that may be allocated
5 pursuant to this section and Section 23689 shall be reduced by the
6 amount of credit allowed to all qualified taxpayers pursuant to
7 subparagraph (A) or subparagraph (B) of paragraph (1) of
8 subdivision (c) of Section 23636.

9 (ii) If the amount available per fiscal year pursuant to this
10 section and Section 23689 is less than the aggregate amount of
11 credit allowed to qualified taxpayers pursuant to subparagraph
12 (A) or subparagraph (B) of paragraph (1) of subdivision (c) of
13 Section 23636, the aggregate amount allowed pursuant to Section
14 23636 shall not be reduced and, in addition to the reduction
15 required by clause (i), the aggregate amount of credit that may be
16 allocated pursuant to this section and Section 23689 for the next
17 fiscal year shall be reduced by the amount of that deficit.

18 (iii) It is the intent of the Legislature that the reductions specified
19 in this subparagraph of the aggregate amount of credit that may
20 be allocated pursuant to this section and Section 23689 shall
21 continue if the repeal dates of the credits allowed by this section
22 and Section 23689 are removed or extended.

23 (F) In addition to the amounts determined pursuant to
24 paragraph (1), the Director of Finance may increase the aggregate
25 amount by up to twenty-five million dollars (\$25,000,000) per year
26 through 2019. The amount of any increase made pursuant to this
27 paragraph, when combined with any increase made pursuant to
28 subparagraph (F) of paragraph (1) of subdivision (g) of Section
29 23689, shall not exceed twenty-five million dollars (\$25,000,000)
30 per year through 2019.

31 (G) It is the intent of the Legislature that the Director of Finance
32 increase the aggregate amount under subparagraph (F) in order
33 to mitigate the reduction of the amount available due to the credit
34 allowed to all qualified taxpayers pursuant to subparagraph (A)
35 or subparagraph (B) of paragraph (1) of subdivision (c) of Section
36 23636.

37 (H) Subparagraphs (E), (F), and (G) shall become operative
38 only if Assembly Bill 2389 is enacted and becomes effective on or
39 before January 1, 2015, and adds Section 23636.

1 (2) Each fiscal year, 25 percent of the aggregate amount of the
2 credit that may be allocated pursuant to this section and Section
3 23689 shall be reserved for small business, as defined in Section
4 17053.73 or 23626.

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

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

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

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

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

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

32 *SEC. 2. Section 23689 of the Revenue and Taxation Code is*
33 *amended to read:*

34 23689. (a) (1) For each taxable year beginning on and after
35 January 1, 2014, and before January 1, 2025, there shall be allowed
36 as a credit against the “tax,” as defined in Section 23036, an amount
37 as determined by the committee pursuant to paragraph (2) and
38 approved pursuant to Section 18410.2.

39 (2) The credit under this section shall be allocated by GO-Biz
40 with respect to the 2013–14 fiscal year through and including the

1 2017–18 fiscal year. The amount of credit allocated to a taxpayer
2 with respect to a fiscal year pursuant to this section shall be as set
3 forth in a written agreement between GO-Biz and the taxpayer and
4 shall be based on the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) For purposes of this section:

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

- 1 (2) “GO-Biz” means the Governor’s Office of Business and
2 Economic Development.
- 3 (c) For purposes of this section, GO-Biz shall do the following:
- 4 (1) Give priority to a taxpayer whose project or business is
5 located or proposed to be located in an area of high unemployment
6 or poverty.
- 7 (2) Negotiate with a taxpayer the terms and conditions of
8 proposed written agreements that provide the credit allowed
9 pursuant to this section to a taxpayer.
- 10 (3) Provide the negotiated written agreement to the committee
11 for its approval pursuant to Section 18410.2.
- 12 (4) Inform the Franchise Tax Board of the terms and conditions
13 of the written agreement upon approval of the written agreement
14 by the committee.
- 15 (5) Inform the Franchise Tax Board of any recapture, in whole
16 or in part, of a previously allocated credit upon approval of the
17 recapture by the committee.
- 18 (6) Post on its Internet Web site all of the following:
- 19 (A) The name of each taxpayer allocated a credit pursuant to
20 this section.
- 21 (B) The estimated amount of the investment by each taxpayer.
- 22 (C) The estimated number of jobs created or retained.
- 23 (D) The amount of the credit allocated to the taxpayer.
- 24 (E) The amount of the credit recaptured from the taxpayer, if
25 applicable.
- 26 (d) For purposes of this section, the Franchise Tax Board shall
27 do all of the following:
- 28 (1) (A) Except as provided in subparagraph (B), review the
29 books and records of all taxpayers allocated a credit pursuant to
30 this section to ensure compliance with the terms and conditions
31 of the written agreement between the taxpayer and GO-Biz.
- 32 (B) In the case of a taxpayer that is a “small business,” as
33 defined in Section 23626, review the books and records of the
34 taxpayer allocated a credit pursuant to this section to ensure
35 compliance with the terms and conditions of the written agreement
36 between the taxpayers and GO-Biz when, in the sole discretion of
37 the Franchise Tax Board, a review of those books and records is
38 appropriate or necessary in the best interests of the state.
- 39 (2) Notwithstanding Section 19542:

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

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

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

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

19 (g) (1) The aggregate amount of credit that may be allocated
20 in any fiscal year pursuant to this section and Section 17059.2 shall
21 be an amount equal to the sum of subparagraphs (A), (B), and (C),
22 less the amount specified in ~~subparagraph (D)~~ *subparagraphs (D)*
23 *and (E), and plus the amount specified in subparagraph (F):*

24 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
25 year, one hundred fifty million dollars (\$150,000,000) for the
26 2014–15 fiscal year, and two hundred million dollars
27 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,
28 inclusive.

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

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

33 (D) The amount estimated by the Director of Finance, in
34 consultation with the Franchise Tax Board and the State Board of
35 Equalization, to be necessary to limit the aggregation of the
36 estimated amount of exemptions claimed pursuant to Section
37 6377.1 and of the amounts estimated to be claimed pursuant to
38 this section and Sections 17053.73, 17059.2, and 23626 to no more
39 than seven hundred fifty million dollars (\$750,000,000) for either
40 the current fiscal year or the next fiscal year.

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

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

13 *(E) (i) For the 2015–16 fiscal year and each fiscal year*
 14 *thereafter, the aggregate amount of credit that may be allocated*
 15 *pursuant to this section and Section 17059.2 shall be reduced by*
 16 *the amount of credit allowed to all qualified taxpayers pursuant*
 17 *to subparagraph (A) or subparagraph (B) of paragraph (1) of*
 18 *subdivision (c) of Section 23636.*

19 *(ii) If the amount available per fiscal year pursuant to this*
 20 *section and Section 17059.2 is less than the aggregate amount*
 21 *allowed to qualified taxpayers pursuant to subparagraph (A) or*
 22 *subparagraph (B) of paragraph (1) of subdivision (c) of Section*
 23 *23636, the aggregate amount allowed pursuant to Section 23636*
 24 *shall not be reduced and, in addition to the reduction required by*
 25 *clause (i), the aggregate amount available pursuant to this section*
 26 *and Section 17059.2 for the next fiscal year shall be reduced by*
 27 *the amount of that deficit.*

28 *(iii) It is the intent of the Legislature that the reductions specified*
 29 *in this subparagraph of the aggregate amount of credit that may*
 30 *be allocated pursuant to this section and Section 17059.2 shall*
 31 *continue if the repeal dates of the credits allowed by this section*
 32 *and Section 17059.2 are removed or extended.*

33 *(F) In addition to the amounts determined pursuant to*
 34 *paragraph (1), the Director of Finance may increase the aggregate*
 35 *amount by up to twenty-five million dollars (\$25,000,000) per year*
 36 *through 2019. The amount of any increase made pursuant to this*
 37 *paragraph, when combined with any increase made pursuant to*
 38 *subparagraph (F) of paragraph (1) of subdivision (g) of Section*
 39 *17059.2, shall not exceed twenty-five million dollars (\$25,000,000)*
 40 *per year through 2019.*

1 (G) It is the intent of the Legislature that the Director of Finance
2 increase the aggregate amount under subparagraph (F) in order
3 to mitigate the reduction of the amount available due to the credit
4 allowed to all qualified taxpayers pursuant to subparagraph (A)
5 or Subparagraph (B) of paragraph (1) of subdivision (c).

6 (H) Subparagraphs (E), (F), and (G) shall become operative
7 only if Assembly Bill 2389 is enacted and becomes effective on or
8 before January 1, 2015, and adds Section 23636.

9 (2) Each fiscal year, 25 percent of the aggregate amount of the
10 credit that may be allocated pursuant to this section and Section
11 17059.2 shall be reserved for “small business,” as defined in
12 Section 17053.73 or 23626.

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

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

22 (i) (1) A written agreement between GO-Biz and a taxpayer
23 with respect to the credit authorized by this section shall not
24 restrict, broaden, or otherwise alter the ability of the taxpayer to
25 assign that credit or any portion thereof in accordance with Section
26 23663.

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

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

34 (2) The Franchise Tax Board shall annually provide to the Joint
35 Legislative Budget Committee, by no later than March 1, a report
36 of the total dollar amount of the credits claimed under this section
37 with respect to the relevant fiscal year. The report shall compare
38 the total dollar amount of credits claimed under this section with
39 respect to that fiscal year with the department’s estimate with
40 respect to that same fiscal year. If the total dollar amount of credits

1 claimed for the fiscal year is less than the estimate for that fiscal
2 year, the report shall identify options for increasing annual claims
3 of the credit so as to meet estimated amounts.

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

5 SECTION 1. Section 100509 is added to the Government Code,
6 to read:

7 100509. (a) ~~The Exchange shall not disclose an individual's~~
8 ~~personal information to third parties for the purpose of determining~~
9 ~~eligibility for, or enrolling the individual in, health care coverage~~
10 ~~unless both of the following requirements are satisfied prior to the~~
11 ~~disclosure:~~

12 (1) ~~The individual, through communication with the Exchange,~~
13 ~~including the Internet Web site of the Exchange, confirms his or~~
14 ~~her eligibility for a qualified health plan offered by the Exchange~~
15 ~~and receives an estimate of the cost of the qualified health plans~~
16 ~~offered by the Exchange that he or she may purchase.~~

17 (2) ~~After paragraph (1) has been satisfied, the Exchange obtains~~
18 ~~written consent from the individual on a stand-alone item in~~
19 ~~12-point font that requests the individual's consent for disclosure~~
20 ~~of personal information to third parties for the purposes of~~
21 ~~determining eligibility for, or enrolling the individual in, health~~
22 ~~care coverage.~~

23 (b) ~~The Exchange shall immediately notify the public of any~~
24 ~~breach of the security of personal information, regardless of the~~
25 ~~severity of the breach and regardless of whether personal~~
26 ~~information was acquired by an unauthorized person during the~~
27 ~~breach. This subdivision shall apply in addition to any other~~
28 ~~disclosure requirements applicable to the Exchange, including, but~~
29 ~~not limited to, Section 1798.29 of the Civil Code.~~

30 (c) ~~For purposes of this section, the following definitions shall~~
31 ~~apply:~~

32 (1) ~~“Exchange” includes an employee of the Exchange or a~~
33 ~~member of the board of the Exchange.~~

34 (2) ~~“Personal information” means any information that is~~
35 ~~created, collected, or maintained by the Exchange that identifies~~
36 ~~or describes an individual, including, but not limited to, his or her~~
37 ~~name, social security number, physical description, home address,~~
38 ~~home telephone number, education, financial matters, and medical~~
39 ~~or employment history. “Personal information” includes statements~~
40 ~~made by, or attributed to, the individual.~~

1 ~~(3) “Third party” means a person or entity other than the~~
2 ~~Exchange.~~

3 ~~SEC. 2.~~

4 *SEC. 3.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 ~~The California Health Benefit Exchange is currently releasing~~
9 ~~to third parties the personal information of individuals using the~~
10 ~~Covered California Internet Web site without their knowledge. In~~
11 ~~order to protect the privacy rights of individuals applying for health~~
12 ~~care coverage through the Exchange, *In order to ensure the public*~~
13 ~~*good by providing certainty regarding the incentives available for*~~
14 ~~*attracting and retaining jobs in economically distressed areas of*~~
15 ~~*the state, it is necessary that this act take effect immediately.*~~