AMENDED IN SENATE AUGUST 19, 2014

AMENDED IN SENATE AUGUST 5, 2014

AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY MAY 15, 2014

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1999

Introduced by Assembly Member Atkins

February 20, 2014

An act ~~to amend Section 23036 of, and~~ to add and repeal Sections 38.10, 17053.91, and 23686.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Atkins. Personal income and corporation taxes: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow *to a taxpayer that receives a tax credit reservation* a credit against those taxes for each taxable year beginning on or after January 1, 2015, and before January 1, 2023, in an amount, determined in modified conformity with a specified section of the Internal Revenue Code, for rehabilitation of certified historic structures. This bill would provide for a 20% credit, or 25% credit, of qualified rehabilitation expenditures if the structure meets specified criteria, for rehabilitation of a certified historic structure within the state to be *reserved and* allocated by the Governor's Office of Business and Economic Development, which shall consult with the Office of Historic Preservation, as provided. The aggregate amount of credit would be ~~$80,000,000~~ *$50,000,000* per calendar year, *$10,000,000 of which is set aside for rehabilitation projects with qualified rehabilitation expenditures of less than $1,000,000,* as specified. This bill would require the Legislative Analyst to, on an annual basis, collaborate with the Governor's Office of Business and Economic Development to review the tax credit, as provided.

This bill would take effect immediately as a tax levy.

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

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

SECTION 1. (a) The Legislature finds and declares that California's historic buildings are an important asset to communities throughout the state, and that the preservation and restoration of these buildings is important to enhancing civic pride, increasing tourism, and maintaining vibrant neighborhoods.

(b) The Legislature further finds and declares all of the following:

(1) The federal Historic Preservation Tax Incentives program, currently available to California's income producing historic properties, has generated nearly $1.5 billion in investment during the last 10 years.

(2) While 35 states have similar state tax credits or incentives for historic preservation, no such incentive exists in California.

(3) States that have partnered a state incentive with the federal Historic Preservation Tax Incentive have reaped significant economic development benefits, including construction and building industry job creation, increased state tax revenues through increased employment and wages, increased local property tax revenues through increased property values, and increased local tax revenues through sales taxes and heritage tourism.

(4) Over the last 10 years, California has had 129 projects qualify for the federal Historic Preservation Tax Incentives program. These projects have been located in 20 different counties.

(5) As California communities continue to adjust and adapt to the dissolution of redevelopment agencies, proven tools are still needed to incentivize economic development and revitalize economically distressed areas.

SEC. 2. Section 38.10 is added to the Revenue and Taxation Code, to read:

38.10. (a) The Legislative Analyst shall, on an annual basis beginning January 1, 2016, collaborate with the Governor's Office of Business and Economic Development to review the effectiveness of the tax credits allowed by Sections ~~17053.86 and 23686~~ *17053.91 and 23686.1*. The review shall include, but is not limited to, an analysis of the demand for the tax credit, the types and uses of projects receiving the tax credit, the jobs created by the use of the tax credits, and the economic impact of the tax credits.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

SEC. 3. Section 17053.91 is added to the Revenue and Taxation Code, to read:

17053.91. For each taxable year beginning on or after January 1, 2015, and before January 1, 2023, there shall be allowed ~~as~~ *to a taxpayer who receives a tax credit reservation* a credit against the "net tax," as defined in Section 17039, an amount determined in accordance with Section 47 of the Internal Revenue Code, except as follows:

(a) (1) In lieu of the percentages specified in Section 47(a) of the Internal Revenue Code, except as provided in paragraph (2), the applicable percentage shall be 20 percent of the qualified rehabilitation expenditures with respect to a certified historic structure.

(2) The applicable percentage shall be 25 percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that certified historic structure meets one of the following criteria:

(A) The rehabilitated structure is located on federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

(3) The credit shall be allowed for qualified rehabilitation expenditures for an owner-occupied residence determined by the Governor's Office of Business and Economic Development and the Office of Historic Preservation to have a public benefit in the year of completion in the amounts specified in paragraphs (1) and (2), as applicable, for those *qualified rehabilitation expenditure* amounts that are equal to or more than five thousand dollars ($5,000) but do not exceed twenty-five thousand dollars ($25,000). *A taxpayer shall only be allowed a credit pursuant to this paragraph once every 10 taxable years.*

(4) Section 47(c)(1)(C) of the Internal Revenue Code is modified so that only the 24-month period shall apply.

(b) For purposes of this section, the following definitions shall apply:

(1) "Certified historic structure" has the same meaning as defined in Section ~~47(c)(3),~~ *47(c)(3)* of the Internal Revenue ~~Code,~~ *Code* and additionally means a structure in this state that is listed ~~below~~ *on* the California Register of Historical Resources.

(2) "Owner-occupied residence" ~~means a building that will be owned and occupied by an individual tax payer, who has a household income of two hundred thousand dollars ($200,000) or less, as the taxpayer's principal residence~~ *has the same meaning as that term is defined in Section 163(h)(4) of the Internal Revenue Code, that will be owned and occupied by an individual taxpayer who has a modified adjusted gross income, as defined by Section 62 of the Internal Revenue Code, of two hundred thousand dollars ($200,000) or less, as the taxpayer's principal residence or will be after the rehabilitation of the residence*.

(3) (A) "Qualified rehabilitation expenditure" has the same meaning as that term is defined in Section 47(c) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax-exempt use property.

(B) "Qualified rehabilitation expenditure" also means rehabilitation expenditures incurred by the taxpayer with respect to an owner-occupied principal residence for the rehabilitation of the exterior of the building or rehabilitation necessary for the functioning of the home, including, but not limited to, rehabilitation of the electrical, plumbing, or foundation of the principal residence.

(c) (1) To be eligible for the credit allowed by this section, a taxpayer shall request a tax credit reservation from the Governor's Office of Business and Economic Development, in the form and manner prescribed by the Governor's Office of Business and Economic Development.

(2) To obtain a tax credit reservation, the taxpayer shall provide necessary information, as determined by the Governor's Office of Business and Economic Development.

(3) A tax credit reservation provided to a taxpayer shall not constitute a determination by the Governor's Office of Business and Economic Development with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(4) If a taxpayer receives a tax credit reservation but rehabilitation has not commenced within 18 months of the issuance of the tax credit reservation, the tax credit reservation shall be forfeited and the credit amount associated with the tax credit reservation shall be treated as an unused allocation tax credit amount.

~~(c)~~

(d) A deduction shall not be allowed under this part for any expense for which a credit is allowed by this section.

~~(d)~~

(e) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

~~(e)~~

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

~~(f)~~

(g) For purposes of this section, the Governor's Office of Business and Economic Development shall do the following:

(1) On and after January 1, 2015, and before January 1, 2023, *reserve and* allocate tax credits to applicants.

(2) Establish a procedure for applicants to file with the Governor's Office of Business and Economic Development a written application, on a form jointly prescribed by that office and the Office of Historic Preservation for the ~~allocation~~ *reservation* of the tax credit.

(3) Establish criteria consistent with the requirements of this section, for ~~allocating~~ *reserving* tax credits. *A taxpayer shall not receive a tax credit reservation unless the following criteria are met.* Criteria shall include, but are not limited to, the following:

(A) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.

(B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes.

(C) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.

(D) For the qualified rehabilitation expenditures with respect to an owner-occupied principal residence, the rehabilitation has a public benefit, as determined jointly with the Office of Historic Preservation.

(4) Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this section to ensure that the rehabilitation project ~~upholds historical values in terms of architectural and aesthetic standards~~ *meets the Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations*.

(5) Process and approve, or reject, all *tax credit reservation* applications.

(6) *(A)* Subject to the annual cap established as provided in subdivision ~~(g),~~ *(h),* allocate an aggregate amount of credits under

this section and Section 23686.1, and allocate any carryover of unallocated credits from prior years.

(B) A taxpayer shall be allocated a tax credit pursuant to the taxpayer's tax credit reservation upon receipt by the Governor's Office of Business and Economic Development of a cost certification for the qualified rehabilitation expenditures. For projects with qualified rehabilitation expenditures in excess of two hundred fifty thousand dollars ($250,000), the cost certification shall be issued by a licensed certified public accountant.

(7) Certify tax credits allocated to taxpayers.

(8) Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section ~~23686~~ *23686.1*, including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.

~~(g)~~

(h) (1) The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section ~~23686~~ *23686.1* shall be an amount equal to the sum of all of the following:

~~(1)~~

(A) ~~Eighty~~ *Fifty* million dollars ~~($80,000,000)~~ *($50,000,000)* in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the 2022 calendar year.

~~(2)~~

(B) The unused allocation tax credit amount, if any, for the preceding calendar year.

(2) Notwithstanding the foregoing, the Governor's Office of Business and Economic Development shall set aside ten million dollars ($10,000,000) of tax credits each calendar year for taxpayers with qualified rehabilitation expenditures of less than one million dollars ($1,000,000). To the extent that this amount is not fully reserved in any calendar year, the unused portion shall become available for reservation to other taxpayers.

~~(h)~~

(i) In the case of any application for tax credits by an entity treated as a partnership or "S" corporation for income tax purposes:

(1) (A) Credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the

partnership agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(B) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the tax credit recapture period for the project described in subparagraph (A) shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the tax credit recapture period expires for the project described in subparagraph (A). The credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement.

(2) Credits awarded to an "S" corporation shall be allocated among the shareholders of that "S" corporation pro rata in accordance with their respective pro rata shares, determined in accordance with Subchapter S of Chapter 1 of the Internal Revenue Code and the regulations promulgated thereunder.

~~(i)~~

(j) Section 183 of the Internal Revenue Code shall not apply with respect to the credit allowed by this section.

~~(j)~~

(k) For purposes of this section, the provisions of subsection (a) of Section 50 of the Internal Revenue Code shall apply.

(l) Notwithstanding any other provision of this part, a credit allowed pursuant to this section may reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504, relating to the separate tax on lump-sum distributions, below the tentative minimum tax.

(m) This section shall remain in effect regardless of the expiration or repeal of Section 47 of the Internal Revenue Code, relating to rehabilitation credit.

~~(k)~~

(n) The Governor's Office of Business and Economic Development may adopt a reasonable fee in an amount sufficient to cover the expenses incurred by the Governor's Office of Business and Economic Development and the Office of Historic Preservation in fulfilling the responsibilities described in

paragraphs (4) and (5) of subdivision ~~(f)~~ *(g)* and paragraphs (4) and (5) of subdivision ~~(f)~~ *(g)* of Section ~~23686~~ *23686.1*.

~~(*l*)~~

(o) This section shall remain in effect only until December 1, 2023, and as of that date is repealed.

~~SEC. 4. Section 23036 of the Revenue and Taxation Code is amended to read:~~

~~23036. (a) (1) The term “tax” includes any of the following:~~

~~(A) The tax imposed under Chapter 2 (commencing with Section 23101).~~

~~(B) The tax imposed under Chapter 3 (commencing with Section 23501).~~

~~(C) The tax on unrelated business taxable income, imposed under Section 23731.~~

~~(D) The tax on “S” corporations imposed under Section 23802.~~

~~(2) The term “tax” does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.~~

~~(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term “tax” also includes all of the following:~~

~~(1) The tax on limited partnerships, imposed under Section 17935, the tax on limited liability companies, imposed under Section 17941, and the tax on registered limited liability partnerships and foreign limited liability partnerships imposed under Section 17948.~~

~~(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).~~

~~(3) The tax on built-in gains of “S” corporations, imposed under Section 23809.~~

~~(4) The tax on excess passive investment income of “S” corporations, imposed under Section 23811.~~

~~(c) Notwithstanding any other provision of this part, credits are allowed against the “tax” in the following order:~~

~~(1) Credits that do not contain carryover provisions.~~

~~(2) Credits that, when the credit exceeds the “tax,” allow the excess to be carried over to offset the “tax” in succeeding taxable~~

~~years, except for those credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455. The order of credits within this paragraph shall be determined by the Franchise Tax Board.~~

~~(3) The minimum tax credit allowed by Section 23453.~~

~~(4) Credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455.~~

~~(5) Credits for taxes withheld under Section 18662.~~

~~(d) Notwithstanding any other provision of this part, each of the following applies:~~

~~(1) A credit may not reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits:~~

~~(A) The credit allowed by former Section 23601 (relating to solar energy).~~

~~(B) The credit allowed by former Section 23601.4 (relating to solar energy).~~

~~(C) The credit allowed by former Section 23601.5 (relating to solar energy).~~

~~(D) The credit allowed by Section 23609 (relating to research expenditures).~~

~~(E) The credit allowed by former Section 23609.5 (relating to clinical testing expenses).~~

~~(F) The credit allowed by Section 23610.5 (relating to low-income housing).~~

~~(G) The credit allowed by former Section 23612 (relating to sales and use tax credit).~~

~~(H) The credit allowed by Section 23612.2 (relating to enterprise zone sales or use tax credit).~~

~~(I) The credit allowed by former Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).~~

~~(J) The credit allowed by former Section 23622 (relating to enterprise zone hiring credit).~~

~~(K) The credit allowed by Section 23622.7 (relating to enterprise zone hiring credit).~~

~~(L) The credit allowed by former Section 23623 (relating to program area hiring credit).~~

~~(M) The credit allowed by former Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).~~

~~(N) The credit allowed by former Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).~~

~~(O) The credit allowed by Section 23633 (relating to targeted tax area sales or use tax credit).~~

~~(P) The credit allowed by Section 23634 (relating to targeted tax area hiring credit).~~

~~(Q) The credit allowed by former Section 23649 (relating to qualified property).~~

~~(R) For taxable years beginning on or after January 1, 2011, the credit allowed by Section 23685 (relating to qualified motion pictures).~~

~~(S) The credit allowed by Section 23686.1 (relating to credits for rehabilitation of certified historic structures).~~

~~(2) A credit against the tax may not reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).~~

~~(e) Any credit which is partially or totally denied under subdivision (d) is allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.~~

~~(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative is allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.~~

~~(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer is eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.~~

~~(h) Unless otherwise provided, in the case of an "S" corporation, any credit allowed by this part is computed at the "S" corporation level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit applies to the "S" corporation and to each shareholder.~~

~~(i) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity is limited in accordance with paragraphs (2) and (3).~~

~~(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "tax," as defined in subdivision (a), for the taxable year is limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 23455), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to that disregarded business entity. A credit is not allowed if the taxpayer's regular tax (as defined in Section 23455), determined by including the income attributable to the disregarded business entity is less than the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to the disregarded business entity.~~

~~(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (d), (e), and (f).~~

~~(j) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-thru entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.~~

~~(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year a credit is operative.~~

~~(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.~~

~~SEC. 5.~~

SEC. 4. Section 23686.1 is added to the Revenue and Taxation Code, to read:

23686.1. For each taxable year beginning on or after January 1, 2015, and before January 1, 2023, there shall be allowed ~~as~~ *to a taxpayer that receives a tax credit reservation* a credit against the "tax," as defined in Section 23036, an amount determined in accordance with Section 47 of the Internal Revenue Code, except as follows:

(a) (1) In lieu of the percentages specified in Section 47(a) of the Internal Revenue Code, except as provided in paragraph (2), the applicable percentage shall be 20 percent of the qualified rehabilitation expenditures with respect to a certified historic structure.

(2) The applicable percentage shall be 25 percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that *certified* historic structure meets one of the following criteria:

(A) The rehabilitated structure is located on federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

(b) For purposes of this section, the following *definitions* shall apply:

(1) "Certified historic structure" has the same meaning as defined in Section 47(c)(3) of the Internal Revenue Code and additionally means a structure in this state that is listed on the California Register of Historical Resources.

(2) "Qualified rehabilitation expenditure" has the same meaning as that term is defined in Section 47(c) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax exempt use property.

(c) (1) To be eligible for the credit allowed by this section, a taxpayer shall request a tax credit reservation from the Governor's Office of Business and Economic Development, in the form and manner prescribed by the Governor's Office of Business and Economic Development.

(2) To obtain a tax credit reservation, the taxpayer shall provide necessary information, as determined by the Governor's Office of Business and Economic Development.

(3) A tax credit reservation provided to a taxpayer shall not constitute a determination by the Governor's Office of Business and Economic Development with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(4) If a taxpayer receives a tax credit reservation but rehabilitation has not commenced within 18 months of the issuance of the tax credit reservation, the tax credit reservation shall be forfeited and the credit amount associated with the tax credit reservation shall be treated as an unused allocation tax credit amount.

~~(c)~~

(d) A deduction shall not be allowed under this part for any ~~cost~~ *expense* for which a credit is allowed by this section.

~~(d)~~

(e) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

~~(e)~~

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

~~(f)~~

(g) For purposes of this section, the Governor's Office of Business and Economic Development shall do the following:

(1) On and after January 1, 2015, and before January 1, 2023, *reserve and* allocate tax credits to applicants.

(2) Establish a procedure for applicants to file with the Governor's Office of Business and Economic Development a written application, on a form jointly prescribed by that office and

the Office of Historic Preservation for the ~~allocation~~ *reservation* of the tax credit.

(3) Establish criteria consistent with the requirements of this section, for ~~allocating~~ *reserving* tax credits. *A taxpayer shall not receive a tax credit reservation unless the following criteria are met.* Criteria shall include, but are not limited to, the following:

(A) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.

(B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes.

(C) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.

(4) Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this section to ensure that the rehabilitation project ~~upholds historical values in terms of architectural and aesthetic standards~~ *meets the Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations*.

(5) Process and approve, or reject, all *tax credit reservation* applications.

(6) *(A)* Subject to the annual cap established as provided in subdivision ~~(g),~~ *(h),* allocate an aggregate amount of credits under this section and Section ~~17053.86~~ *17053.91*, and allocate any carryover of unallocated credits from prior years.

(B) A taxpayer shall be allocated a tax credit pursuant to the taxpayer's tax credit reservation upon receipt by the Governor's Office of Business and Economic Development of a cost certification for the qualified rehabilitation expenditures. For projects with qualified rehabilitation expenditures in excess of two hundred fifty thousand dollars ($250,000), the cost certification shall be issued by a licensed certified public accountant.

(7) Certify tax credits allocated to taxpayers.

(8) Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section ~~17053.86,~~ *17053.91* including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.

~~(g)~~

(h) (1) The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section 17053.91 shall be an amount equal to the sum of all of the following:

~~(1)~~

(A) ~~Eighty~~ *Fifty* million dollars ~~($80,000,000)~~ *($50,000,000)* in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the 2022 calendar year.

~~(2)~~

(B) The unused allocation tax credit amount, if any, for the preceding calendar year.

(2) Notwithstanding the foregoing, the Governor's Office of Business and Economic Development shall set aside ten million dollars ($10,000,000) of tax credits each calendar year for taxpayers with qualified rehabilitation expenditures of less than one million dollars ($1,000,000). To the extent that this amount is not fully reserved in any calendar year, the unused portion shall become available for reservation to other taxpayers.

~~(h)~~

(i) In the case of any application for tax credits by an entity treated as a partnership or "S" corporation for income tax purposes:

(1) (A) Credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the partnership agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.

(B) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the tax credit recapture period for the project described in subparagraph (A) shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the tax credit recapture period expires for the project described in subparagraph (A). The credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement.

(2) Credits awarded to an "S" corporation shall be allocated among the shareholders of that "S" corporation pro rata in accordance with their respective pro rata shares, determined in accordance with Subchapter S of Chapter 1 of the Internal Revenue Code and the regulations promulgated thereunder.

~~(i)~~

(j) Section 183 of the Internal Revenue Code shall not apply with respect to the credit allowed by this section.

~~(j)~~

(k) For purposes of this section, the provisions of subsection (a) of Section 50 of the Internal Revenue Code shall apply.

(l) Notwithstanding any other provision of this part, a credit allowed pursuant to this section may reduce the "tax" below the tentative minimum tax, as defined by paragraph (1) of subdivision (a) of Section 23455.

(m) This section shall remain in effect regardless of the expiration or repeal of Section 47 of the Internal Revenue Code, relating to rehabilitation credit.

~~(k)~~

(n) The Governor's Office of Business and Economic Development may adopt a reasonable fee in an amount sufficient to cover the expenses incurred by the Governor's Office of Business and Economic Development and the Office of Historic Preservation in fulfilling the responsibilities described in paragraphs (4) and (5) of subdivision ~~(f)~~ *(g)* and paragraphs (4) and (5) of subdivision ~~(f)~~ *(g)* of Section 17053.91.

~~*(l)*~~

(o) This section shall remain in effect only until December 1, 2023, and as of that date is repealed.

~~SEC. 6.~~

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

O