

AMENDED IN ASSEMBLY JUNE 25, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2389**

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**Introduced by Assembly Member ~~Campos~~ Fox**

*(Principal Coauthors: Assembly Members Campos, Muratsuchi, Quirk-Silva, and Salas)*

*(Principal Coauthors: Senators Knight and Lieu)*

*(Coauthors: Assembly Members Achadjian, Alejo, Atkins, Bloom, Bocanegra, Bradford, Ian Calderon, Chau, Conway, Cooley, Dababneh, Dickinson, Gorell, Gray, Hall, Harkey, Linder, Maienschein, Medina, Nazarian, Olsen, Pan, Perea, John A. Pérez, V. Manuel Pérez, and Wilk)*

*(Coauthors: Senators Anderson, Berryhill, Cannella, Correa, Fuller, Gaines, Huff, Lara, Nielsen, Padilla, Roth, Vidak, and Walters)*

February 21, 2014

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~~An act to amend Section 2333.5 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.~~ *An act to amend Section 51298.5 of, and to amend, repeal, and add Section 51298 of, the Government Code, and to add Section 23636 to the Revenue and Taxation Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2389, as amended, ~~Campos~~ Fox. ~~Safe routes to school.~~ *Local government: capital investment incentive programs: corporation tax credits: qualified wages: new advanced strategic aircraft program.*

*Existing law authorizes a county, city and county, or city to establish a capital investment incentive program, pursuant to which the county,*

city and county, or city is authorized to pay a capital investment incentive amount, as defined, that does not exceed the amount of property tax derived from the assessed value of that portion of a qualified manufacturing facility that exceeds \$150,000,000, to a proponent of a qualified manufacturing facility. A “qualified manufacturing facility” is defined to include a facility operated by a business described in specified provisions of the Standard Industrial Classification Manual. Existing law requires the Business, Transportation and Housing Agency, or its successor, to certify qualified manufacturing facilities for purposes of these provisions and to carry out various oversight duties. Existing law repeals these provisions on January 1, 2017.

This bill would, until July 1, 2015, reduce the assessed value threshold for calculating the capital investment incentive amount from \$150,000,000 to \$25,000,000 and would define “qualified manufacturing facility” to include, among others, facilities operated by certain businesses described in specified provisions of the North American Industry Classification System Manual. The bill would transfer the duties of the Business, Transportation and Housing Agency to the Governor’s Office of Business and Economic Development (GO-Biz). The bill would, on July 1, 2015, restore the existing provisions relating to the capital investment threshold amount and the definition of “qualified manufacturing facility,” but would maintain the transfer of duties to Go-Biz. The bill would instead repeal these provisions on January 1, 2018. The bill would also replace obsolete references in those restored provisions to the Standard Industrial Classification Manual with corresponding references to the North American Industry Classification System Manual.

The Corporation Tax Law allows various credits against the taxes imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2015, and before January 1, 2030, allow, with regard to the manufacture of a new advanced strategic aircraft for the United States Air Force, a credit against the taxes imposed under that law for 17½% of qualified wages, as defined, paid or incurred by the qualified taxpayer, as defined, to qualified full-time employees, award the credit on a first-come-first-served basis, and provide that the credit have a phased aggregate cap ranging from \$25,000,000 to \$31,000,000 per calendar year, as specified.

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

~~Existing law requires the Department of Transportation, in consultation with the Department of the California Highway Patrol, to establish and administer a safe routes to school program for construction of bicycle and pedestrian safety and traffic calming projects. These provisions become inoperative on July 1, 2014, and are repealed on January 1, 2015.~~

~~Existing law also creates the Active Transportation Program in the Department of Transportation to fund various transportation projects and programs relating to biking, walking, and other nonmotorized activities, with funds allocated by the California Transportation Commission, as specified. Existing law provides that safe routes to school projects are to be included among the types of projects eligible for funding under the Active Transportation Program.~~

~~This bill would extend the date that the specific provisions governing the safe routes to school program become inoperative, to July 1, 2015, and the date that these provisions are repealed, to January 1, 2016.~~

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

~~Vote: 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 51298 of the Government Code is  
2     amended to read:

3     51298. It is the intent of the Legislature in enacting this chapter  
4     to provide local governments with opportunities to attract large  
5     manufacturing facilities to invest in their communities and to  
6     encourage industries, such as high technology, aerospace,  
7     automotive, biotechnology, software, environmental sources, and  
8     others, to locate and invest in those facilities in California.

9     (a) Commencing in the 1998–99 fiscal year, the governing body  
10    of a county, city and county, or city, may, by means of an ordinance  
11    or resolution approved by a majority of its entire membership,  
12    elect to establish a capital investment incentive program. In any  
13    county, city and county, or city in which the governing body has  
14    so elected, the county, city and county, or city shall, upon the  
15    approval by a majority of the entire membership of its governing

1 body of a written request therefor, pay a capital investment  
 2 incentive amount to the proponent of a qualified manufacturing  
 3 facility for up to 15 consecutive fiscal years. A request for the  
 4 payment of capital investment incentive amounts shall be filed by  
 5 a proponent in writing with the governing body of an electing  
 6 county, city and county, or city in the time and manner specified  
 7 in procedures adopted by that governing body. In the case in which  
 8 the governing body of an electing county, city and county, or city  
 9 approves a request for the payment of capital investment incentive  
 10 amounts, both of the following conditions shall apply:

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

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

22 (b) For purposes of this section:

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

25 (A) The proponent’s initial investment in that facility, in real  
 26 and personal property, necessary for the full and normal operation  
 27 of that facility, made pursuant to the capital investment incentive  
 28 program, that comprises any portion of that facility or has its situs  
 29 at that facility, exceeds one hundred fifty million dollars  
 30 (\$150,000,000). Compliance with this subparagraph shall be  
 31 certified by the ~~Business, Transportation~~ *Governor’s Office of*  
 32 *Business and Housing Agency Economic Development* upon the  
 33 ~~agency’s~~ *director’s* approval of a proponent’s application for  
 34 certification of a qualified manufacturing facility. An application  
 35 for certification shall be submitted by a proponent to the ~~agency~~  
 36 *Governor’s Office of Business and Economic Development* in  
 37 writing in the time and manner as specified by the ~~agency~~ *director*.

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

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

2 (i) A business described in Codes 3500 to 3899, inclusive, within  
3 Code 3359 or 3364 of the ~~Standard Industrial 2012 North American~~  
4 ~~Industry Classification (SIC) System (NAICS) Manual published~~  
5 ~~by the United States Office of Management and Budget, 1987~~  
6 ~~edition, except that “January 1, 1997,” shall be substituted for~~  
7 ~~“January 1, 1994,” in each place in which it appears. Budget.~~

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

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

16 (D) The proponent is ~~either currently engaged in commercial~~  
17 ~~production or engaged in the perfection any of the manufacturing~~  
18 ~~process, or the perfection of a product intended to be manufactured.~~  
19 *following:*

20 (i) *Commercial production.*

21 (ii) *The perfection of the manufacturing process.*

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

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

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

29 (B) The party will be the fee owner of the qualified  
30 manufacturing facility upon the completion of that facility.  
31 Notwithstanding the previous sentence, the party may enter into  
32 a sale-leaseback transaction and nevertheless be considered the  
33 proponent.

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

1 (3) “Capital investment incentive amount” means, with respect  
2 to a qualified manufacturing facility for a relevant fiscal year, an  
3 amount up to or equal to the amount of ad valorem property tax  
4 revenue derived by the participating local agency from the taxation  
5 of that portion of the total assessed value of that real and personal  
6 property described in subparagraph (A) of paragraph (1) that is in  
7 excess of ~~one hundred fifty~~ *twenty-five* million dollars  
8 ~~(\$150,000,000)~~. *(\$25,000,000)*.

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

16 (c) A city or special district may, upon the approval by a  
17 majority of the entire membership of its governing body, pay to  
18 the county, city and county, or city an amount equal to the amount  
19 of ad valorem property tax revenue allocated to that city or special  
20 district, but not the actual allocation, derived from the taxation of  
21 that portion of the total assessed value of that real and personal  
22 property described in subparagraph (A) of paragraph (1) of  
23 subdivision (b) that is in excess of ~~one hundred fifty~~ *twenty-five*  
24 million dollars ~~(\$150,000,000)~~. *(\$25,000,000)*.

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

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

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

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

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

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

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

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

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

37 (6) (A) In the case in which the proponent fails to operate the  
38 qualified manufacturing facility as required by the community  
39 services agreement, a provision that requires the recapture of any

1 portion of any capital investment incentive amounts previously  
 2 paid to the proponent equal to the lesser of the following:

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

7 (ii) The last capital investment incentive amount paid to the  
 8 proponent, less the last community services fee received from the  
 9 proponent, multiplied by 40 percent of the number of years  
 10 remaining in the community services agreement, but not to exceed  
 11 10 years, and less any capital investment incentive amounts  
 12 previously recaptured.

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

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

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

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

38 (e) (1) Each county, city and county, or city that elects to  
 39 establish a capital investment incentive program shall notify the  
 40 ~~Business, Transportation~~ *Governor's Office of Business* and

1 ~~Housing Agency Economic Development~~ of its election to do so  
2 no later than June 30th of the fiscal year in which the election was  
3 made.

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

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

19 (f) This section shall become ~~operative~~ *inoperative* on July 1,  
20 ~~2013~~. 2015.

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

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

25 SEC. 2. *Section 51298 is added to the Government Code, to*  
26 *read:*

27 *51298. It is the intent of the Legislature in enacting this chapter*  
28 *to provide local governments with opportunities to attract large*  
29 *manufacturing facilities to invest in their communities and to*  
30 *encourage industries, such as high technology, aerospace,*  
31 *automotive, biotechnology, software, environmental sources, and*  
32 *others, to locate and invest in those facilities in California.*

33 (a) *Commencing in the 1998–99 fiscal year, the governing body*  
34 *of a county, city and county, or city, may, by means of an ordinance*  
35 *or resolution approved by a majority of its entire membership,*  
36 *elect to establish a capital investment incentive program. In any*  
37 *county, city and county, or city in which the governing body has*  
38 *so elected, the county, city and county, or city shall, upon the*  
39 *approval by a majority of the entire membership of its governing*  
40 *body of a written request therefor, pay a capital investment*

1 *incentive amount to the proponent of a qualified manufacturing*  
2 *facility for up to 15 consecutive fiscal years. A request for the*  
3 *payment of capital investment incentive amounts shall be filed by*  
4 *a proponent in writing with the governing body of an electing*  
5 *county, city and county, or city in the time and manner specified*  
6 *in procedures adopted by that governing body. In the case in which*  
7 *the governing body of an electing county, city and county, or city*  
8 *approves a request for the payment of capital investment incentive*  
9 *amounts, both of the following conditions shall apply:*

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

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

21 *(b) For purposes of this section:*

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

24 *(A) The proponent's initial investment in that facility, in real*  
25 *and personal property, necessary for the full and normal operation*  
26 *of that facility, made pursuant to the capital investment incentive*  
27 *program, that comprises any portion of that facility or has its situs*  
28 *at that facility, exceeds one hundred fifty million dollars*  
29 *(\$150,000,000). Compliance with this subparagraph shall be*  
30 *certified by the Governor's Office of Business and Economic*  
31 *Development upon the director's approval of a proponent's*  
32 *application for certification of a qualified manufacturing facility.*  
33 *An application for certification shall be submitted by a proponent*  
34 *to the Governor's Office of Business and Economic Development*  
35 *in writing in the time and manner as specified by the director.*

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

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

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

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

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

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

14 (i) Commercial production.

15 (ii) The perfection of the manufacturing process.

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

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

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

23 (B) The party will be the fee owner of the qualified  
24 manufacturing facility upon the completion of that facility.  
25 Notwithstanding the previous sentence, the party may enter into  
26 a sale-leaseback transaction and nevertheless be considered the  
27 proponent.

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

35 (3) "Capital investment incentive amount" means, with respect  
36 to a qualified manufacturing facility for a relevant fiscal year, an  
37 amount up to or equal to the amount of ad valorem property tax  
38 revenue derived by the participating local agency from the taxation  
39 of that portion of the total assessed value of that real and personal

1 *property described in subparagraph (A) of paragraph (1) that is*  
 2 *in excess of one hundred fifty million dollars (\$150,000,000).*

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

10 *(c) A city or special district may, upon the approval by a*  
 11 *majority of the entire membership of its governing body, pay to*  
 12 *the county, city and county, or city an amount equal to the amount*  
 13 *of ad valorem property tax revenue allocated to that city or special*  
 14 *district, but not the actual allocation, derived from the taxation of*  
 15 *that portion of the total assessed value of that real and personal*  
 16 *property described in subparagraph (A) of paragraph (1) of*  
 17 *subdivision (b) that is in excess of one hundred fifty million dollars*  
 18 *(\$150,000,000).*

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

24 *(1) A provision requiring that a community services fee be*  
 25 *remitted by the proponent to the county, city and county, or city,*  
 26 *in each fiscal year, in an amount that is equal to 25 percent of the*  
 27 *capital investment incentive amount calculated for that proponent*  
 28 *for that fiscal year, except that in no fiscal year shall the amount*  
 29 *of the community services fee exceed two million dollars*  
 30 *(\$2,000,000).*

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

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

39 *(4) A provision specifying that a proponent is ineligible to*  
 40 *receive a capital investment incentive amount if that proponent is*

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

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

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

22 *(B) The average weekly wage, exclusive of overtime, paid to all*  
23 *of the employees working at the qualified manufacturing facility,*  
24 *who are not management or supervisory employees, shall be not*  
25 *less than the state average weekly wage. For the purpose of this*  
26 *subdivision, “state average weekly wage” means the average*  
27 *weekly wage paid by employers to employees covered by*  
28 *unemployment insurance, as reported to the Employment*  
29 *Development Department for the four calendar quarters ending*  
30 *June 30 of the preceding calendar year.*

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

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

1 (ii) *The last capital investment incentive amount paid to the*  
2 *proponent, less the last community services fee received from the*  
3 *proponent, multiplied by 40 percent of the number of years*  
4 *remaining in the community services agreement, but not to exceed*  
5 *10 years, and less any capital investment incentive amounts*  
6 *previously recaptured.*

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

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

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

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

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

37 (2) *In addition to the information required to be reported*  
38 *pursuant to paragraph (1), each county, city and county, or city*  
39 *that has elected to establish a capital investment incentive program*  
40 *shall notify the Governor's Office of Business and Economic*

1 *Development each fiscal year no later than June 30th of the amount*  
2 *of any capital investment incentive payments made and the*  
3 *proponent of the qualified manufacturing facility to whom the*  
4 *payments were made during that fiscal year.*

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

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

12 *SEC. 3. Section 51298.5 of the Government Code is amended*  
13 *to read:*

14 *51298.5. (a) This chapter shall remain in effect only until*  
15 *January 1, 2017, and as of that date is repealed, unless a later*  
16 *enacted statute, that is enacted before January 1, 2017, deletes or*  
17 *extends that date. 2018.*

18 *(b) A capital investment incentive program established pursuant*  
19 *to this chapter before January 1, 2017, 2018, may remain in effect*  
20 *for the full term of that program, regardless of the repeal of this*  
21 *chapter.*

22 *SEC. 4. Section 23636 is added to the Revenue and Taxation*  
23 *Code, to read:*

24 *23636. (a) For each taxable year beginning on or after*  
25 *January 1, 2015, and before January 1, 2030, a qualified taxpayer*  
26 *shall be allowed a credit against the "tax," as defined in Section*  
27 *23036, in an amount equal to 17<sup>1</sup>/<sub>2</sub> percent of qualified wages paid*  
28 *or incurred by the qualified taxpayer during the taxable year to*  
29 *qualified full-time employees multiplied by the annual full-time*  
30 *equivalent ratio.*

31 *(b) For purposes of this section:*

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

33 *(A) In the case of a qualified full-time employee paid hourly*  
34 *qualified wages, "annual full-time equivalent" means the total*  
35 *number of hours worked for the qualified taxpayer by the qualified*  
36 *full-time employee, not to exceed 2,000 hours per employee, divided*  
37 *by 2,000.*

38 *(B) In the case of a salaried qualified full-time employee,*  
39 *"annual full-time equivalent" means the total number of weeks*

1 worked for the qualified taxpayer by the qualified employee divided  
2 by 52.

3 (2) “Annual full-time equivalent ratio” means a ratio, the  
4 numerator of which is 1,100 and the denominator of which is the  
5 number of a qualified taxpayer’s qualified full-time employees  
6 computed on an annual full-time equivalent basis for the taxable  
7 year. The annual full-time equivalent ratio may not be greater  
8 than one.

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

12 (A) The individual’s services for the qualified taxpayer are at  
13 least 80 percent directly related to the qualified taxpayer’s  
14 subcontract to design, test, manufacture property, or otherwise  
15 support production of property for ultimate use in or as a  
16 component of a new advanced strategic aircraft for the United  
17 States Air Force.

18 (B) The individual is paid compensation from the qualified  
19 taxpayer that satisfies either of the following conditions:

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

22 (ii) Is a salary paid by the qualified taxpayer as compensation  
23 during the taxable year for full-time employment, within the  
24 meaning of Section 515 of the Labor Code.

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

34 (5) “Qualified wages” means wages paid or incurred by the  
35 qualified taxpayer during the taxable year with respect to qualified  
36 full-time employees that are direct labor costs, within the meaning  
37 of Section 263A of the Internal Revenue Code, relating to  
38 capitalization and inclusion in inventory costs of certain expenses,  
39 allocable to property manufactured in this state by the qualified

1 taxpayer for ultimate use in or as a component of a new advanced  
2 strategic aircraft for the United States Air Force.

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

7 (7) “New Advanced Strategic Aircraft Program” means the  
8 project designed to design, test, manufacture, or otherwise support  
9 production of a new advanced strategic aircraft for the United  
10 States Air Force under a contract that is expected to be awarded  
11 in the first or second calendar quarter of 2015.

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

15 (A) In years one through five of the credit, the total aggregate  
16 amount of the credit that may be allowed to all qualified taxpayers  
17 pursuant to this section shall not exceed twenty-five million dollars  
18 (\$25,000,000) per calendar year.

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

23 (C) In years 11 through 15 of the credit, the total aggregate  
24 amount of the credit that may be allowed to all qualified taxpayers  
25 pursuant to this section shall not exceed thirty-one million dollars  
26 (\$31,000,000) per calendar year.

27 (2) The Franchise Tax Board shall allocate the credit to the  
28 taxpayers on a first-come-first-served basis.

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

31 (d) In the case where the credit allowed by this section exceeds  
32 the “tax,” the excess may be carried over to reduce the “tax” in  
33 the following year, and the seven succeeding years if necessary,  
34 until the credit is exhausted.

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

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

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

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

11 (2) The Franchise Tax Board may also prescribe rules,  
 12 guidelines, or procedures necessary or appropriate to carry out  
 13 the purposes of this section. Chapter 3.5 (commencing with Section  
 14 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
 15 shall not apply to any rule, guideline, or procedure prescribed by  
 16 the Franchise Tax Board pursuant to this section.

17 (i) This section shall remain in effect only until December 1,  
 18 2030, and as of that date is repealed.

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

23 In order to promote economic development in California related  
 24 to the manufacture of property to be used for new advanced  
 25 strategic aircraft for the United States Air Force and to authorize  
 26 a local government to pay a related capital investment amount  
 27 pursuant to a reduced threshold amount as soon as possible, it is  
 28 necessary that this act take effect immediately.

29 SECTION 1. ~~Section 2333.5 of the Streets and Highways Code~~  
 30 ~~is amended to read:~~

31 ~~2333.5.—(a) The department, in consultation with the~~  
 32 ~~Department of the California Highway Patrol, shall establish and~~  
 33 ~~administer a “Safe Routes to School” construction program for~~  
 34 ~~construction of bicycle and pedestrian safety and traffic calming~~  
 35 ~~projects.~~

36 ~~(b) The department shall award grants to local governmental~~  
 37 ~~agencies under the program based on the results of a statewide~~  
 38 ~~competition that requires submission of proposals for funding and~~  
 39 ~~rates those proposals on all of the following factors:~~

40 ~~(1) Demonstrated needs of the applicant.~~

- 1 ~~(2) Potential of the proposal for reducing child injuries and~~  
2 ~~fatalities.~~
- 3 ~~(3) Potential of the proposal for encouraging increased walking~~  
4 ~~and bicycling among students.~~
- 5 ~~(4) Identification of safety hazards.~~
- 6 ~~(5) Identification of current and potential walking and bicycling~~  
7 ~~routes to school.~~
- 8 ~~(6) Use of a public participation process, including, but not~~  
9 ~~limited to, a public meeting that satisfies all of the following:~~
- 10 ~~(A) Involves the public, schools, parents, teachers, local~~  
11 ~~agencies, the business community, key professionals, and others.~~
- 12 ~~(B) Identifies community priorities and gathers community~~  
13 ~~input to guide the development of projects included in the proposal.~~
- 14 ~~(C) Ensures that community priorities are reflected in the~~  
15 ~~proposal.~~
- 16 ~~(D) Secures support for the proposal by relevant stakeholders.~~
- 17 ~~(7) Benefit to a low-income school, defined for purposes of this~~  
18 ~~section to mean a school where at least 75 percent of students are~~  
19 ~~eligible to receive free or reduced-price meals under the National~~  
20 ~~School Lunch Program.~~
- 21 ~~(e) Any annual budget allocation to fund grants described in~~  
22 ~~subdivision (b) shall be in addition to any federal funding received~~  
23 ~~by the state that is designated for “Safe Routes to School” projects~~  
24 ~~pursuant to Section 1404 of SAFETEA-LU or any similar program~~  
25 ~~funded through a subsequent transportation act.~~
- 26 ~~(d) Any federal funding received by the state that is designated~~  
27 ~~for “Safe Routes to School” projects shall be distributed by the~~  
28 ~~department under the competitive grant process, consistent with~~  
29 ~~all applicable federal requirements.~~
- 30 ~~(e) Prior to the award of any construction grant or the~~  
31 ~~department’s use of those funds for a “Safe Routes to School”~~  
32 ~~construction project encompassing a freeway, state highway, or~~  
33 ~~county road, the department shall consult with, and obtain approval~~  
34 ~~from, the Department of the California Highway Patrol, ensuring~~  
35 ~~that the “Safe Routes to School” proposal complements the~~  
36 ~~California Highway Patrol’s Pedestrian Corridor Safety Program~~  
37 ~~and is consistent with its statewide pedestrian safety statistical~~  
38 ~~analysis.~~

- 1     ~~(f) The department is encouraged to coordinate with law~~
- 2     ~~enforcement agencies' community policing efforts in establishing~~
- 3     ~~and maintaining the "Safe Routes to School" construction program.~~
- 4     ~~(g) In the development of guidelines and procedures governing~~
- 5     ~~this program, the department shall fully consider the needs of~~
- 6     ~~low-income schools.~~
- 7     ~~(h) Up to 10 percent of program funds may be used to assist~~
- 8     ~~eligible recipients in making infrastructure improvements, other~~
- 9     ~~than schoolbus shelters, that create safe routes to schoolbus stops~~
- 10    ~~that are located outside the vicinity of schools.~~
- 11    ~~(i) This section shall become inoperative on July 1, 2015, and,~~
- 12    ~~as of January 1, 2016, is repealed, unless a later enacted statute,~~
- 13    ~~that becomes operative on or before January 1, 2016, deletes or~~
- 14    ~~extends the dates on which it becomes inoperative and is repealed.~~
- 15    ~~SEC. 2. This act is an urgency statute necessary for the~~
- 16    ~~immediate preservation of the public peace, health, or safety within~~
- 17    ~~the meaning of Article IV of the Constitution and shall go into~~
- 18    ~~immediate effect. The facts constituting the necessity are:~~
- 19    ~~In order to extend the operation of the "Safe Routes to School"~~
- 20    ~~Program as quickly as possible, it is necessary that this act take~~
- 21    ~~effect immediately.~~