

AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY JUNE 25, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2389**

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**Introduced by Assembly Member Fox**

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

**(Principal Coauthors: Senators Knight and Lieu)**

*(Principal coauthor: Senator Knight)*

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Gaines, Huff, Lara, Morrell, Nielsen, Padilla, Roth, Vidak, and  
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February 21, 2014

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An act to amend Section 51298.5 of, and to amend, repeal, and add Section 51298 of, the Government Code, and to *amend Sections 17059.2 and 23689 of, 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, Fox. 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 *the assessed value 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.

*Existing law also allows a credit against the taxes imposed under both laws 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 this bill with regard to the manufacture of a new advanced strategic aircraft, as described above.*

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 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  
16 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 within Code 3359 or 3364 of the 2012  
2 North American Industry Classification System (NAICS) Manual  
3 published by the United States Office of Management and Budget.
- 4 (ii) A business engaged in the recovery of minerals from  
5 geothermal resources, including the proportional amount of a  
6 geothermal electric generating plant that is integral to the recovery  
7 process by providing electricity for it.
- 8 (iii) A business engaged in the manufacturing of parts or  
9 components related to the production of electricity using solar,  
10 wind, biomass, hydropower, or geothermal resources on or after  
11 July 1, 2010.
- 12 (D) The proponent is currently engaged in any of the following:
- 13 (i) Commercial production.
- 14 (ii) The perfection of the manufacturing process.
- 15 (iii) The perfection of a product intended to be manufactured.
- 16 (2) “Proponent” means a party or parties that meet all of the  
17 following criteria:
- 18 (A) The party is named in the application to the county, city  
19 and county, or city within which the qualified manufacturing  
20 facility would be located for a permit to construct a qualified  
21 manufacturing facility.
- 22 (B) The party will be the fee owner of the qualified  
23 manufacturing facility upon the completion of that facility.  
24 Notwithstanding the previous sentence, the party may enter into  
25 a sale-leaseback transaction and nevertheless be considered the  
26 proponent.
- 27 (C) If a proponent that is receiving capital investment incentive  
28 amounts subsequently leases the subject qualified manufacturing  
29 facility to another party, the lease may provide for the payment to  
30 that lessee of any portion of a capital investment incentive amount.  
31 Any lessee receiving any portion of a capital investment incentive  
32 amount shall also be considered a proponent for the purposes of  
33 subdivision (d).
- 34 (3) “Capital investment incentive amount” means, with respect  
35 to a qualified manufacturing facility for a relevant fiscal year, an  
36 amount up to or equal to the amount of ad valorem property tax  
37 revenue derived by the participating local agency from the taxation  
38 of that portion of the total assessed value of that real and personal  
39 property described in subparagraph (A) of paragraph (1) that is in  
40 excess of twenty-five million dollars (\$25,000,000).

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

8 (c) A city or special district may, upon the approval by a  
9 majority of the entire membership of its governing body, pay to  
10 the county, city and county, or city an amount equal to the amount  
11 of ad valorem property tax revenue allocated to that city or special  
12 district, but not the actual allocation, derived from the taxation of  
13 that portion of the total assessed value of that real and personal  
14 property described in subparagraph (A) of paragraph (1) of  
15 subdivision (b) that is in excess of twenty-five million dollars  
16 (\$25,000,000).

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

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

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

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

37 (4) A provision specifying that a proponent is ineligible to  
38 receive a capital investment incentive amount if that proponent is  
39 currently delinquent in the payment of any portion of a community  
40 services fee amount, if the qualified manufacturing facility is

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

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

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

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

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

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

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

38 (ii) The last capital investment incentive amount paid to the  
39 proponent, less the last community services fee received from the  
40 proponent, multiplied by 40 percent of the number of years

1 remaining in the community services agreement, but not to exceed  
2 10 years, and less any capital investment incentive amounts  
3 previously recaptured.

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

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

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

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

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

34 (2) In addition to the information required to be reported  
35 pursuant to paragraph (1), each county, city and county, or city  
36 that has elected to establish a capital investment incentive program  
37 shall notify the Governor's Office of Business and Economic  
38 Development each fiscal year no later than June 30th of the amount  
39 of any capital investment incentive payments made and the

1 proponent of the qualified manufacturing facility to whom the  
2 payments were made during that fiscal year.

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

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

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

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

14 SEC. 2. Section 51298 is added to the Government Code, to  
15 read:

16 51298. It is the intent of the Legislature in enacting this chapter  
17 to provide local governments with opportunities to attract large  
18 manufacturing facilities to invest in their communities and to  
19 encourage industries, such as high technology, aerospace,  
20 automotive, biotechnology, software, environmental sources, and  
21 others, to locate and invest in those facilities in California.

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

39 (1) The consecutive fiscal years during which a capital  
40 investment incentive amount is to be paid shall commence with

1 the first fiscal year commencing after the date upon which the  
2 qualified manufacturing facility is certified for occupancy or, if  
3 no certification is issued, the first fiscal year commencing after  
4 the date upon which the qualified manufacturing facility  
5 commences operation.

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

10 (b) For purposes of this section:

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

13 (A) The proponent's initial investment in that facility, in real  
14 and personal property, necessary for the full and normal operation  
15 of that facility, made pursuant to the capital investment incentive  
16 program, that comprises any portion of that facility or has its situs  
17 at that facility, exceeds one hundred fifty million dollars  
18 (\$150,000,000). Compliance with this subparagraph shall be  
19 certified by the Governor's Office of Business and Economic  
20 Development upon the director's approval of a proponent's  
21 application for certification of a qualified manufacturing facility.  
22 An application for certification shall be submitted by a proponent  
23 to the Governor's Office of Business and Economic Development  
24 in writing in the time and manner as specified by the director.

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

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

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

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

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

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

2 (i) Commercial production.

3 (ii) The perfection of the manufacturing process.

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

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

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

11 (B) The party will be the fee owner of the qualified  
12 manufacturing facility upon the completion of that facility.  
13 Notwithstanding the previous sentence, the party may enter into  
14 a sale-leaseback transaction and nevertheless be considered the  
15 proponent.

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

23 (3) “Capital investment incentive amount” means, with respect  
24 to a qualified manufacturing facility for a relevant fiscal year, an  
25 amount up to or equal to the amount of ad valorem property tax  
26 revenue derived by the participating local agency from the taxation  
27 of that portion of the total assessed value of that real and personal  
28 property described in subparagraph (A) of paragraph (1) that is in  
29 excess of one hundred fifty million dollars (\$150,000,000).

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

37 (c) A city or special district may, upon the approval by a  
38 majority of the entire membership of its governing body, pay to  
39 the county, city and county, or city an amount equal to the amount  
40 of ad valorem property tax revenue allocated to that city or special

1 district, but not the actual allocation, derived from the taxation of  
2 that portion of the total assessed value of that real and personal  
3 property described in subparagraph (A) of paragraph (1) of  
4 subdivision (b) that is in excess of one hundred fifty million dollars  
5 (\$150,000,000).

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

11 (1) A provision requiring that a community services fee be  
12 remitted by the proponent to the county, city and county, or city,  
13 in each fiscal year, in an amount that is equal to 25 percent of the  
14 capital investment incentive amount calculated for that proponent  
15 for that fiscal year, except that in no fiscal year shall the amount  
16 of the community services fee exceed two million dollars  
17 (\$2,000,000).

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

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

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

39 (5) A provision that sets forth a job creation plan with respect  
40 to the relevant qualified manufacturing facility. The plan shall

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

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

9 (B) The average weekly wage, exclusive of overtime, paid to  
10 all of the employees working at the qualified manufacturing  
11 facility, who are not management or supervisory employees, shall  
12 be not less than the state average weekly wage. For the purpose  
13 of this subdivision, “state average weekly wage” means the average  
14 weekly wage paid by employers to employees covered by  
15 unemployment insurance, as reported to the Employment  
16 Development Department for the four calendar quarters ending  
17 June 30 of the preceding calendar year.

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

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

27 (ii) The last capital investment incentive amount paid to the  
28 proponent, less the last community services fee received from the  
29 proponent, multiplied by 40 percent of the number of years  
30 remaining in the community services agreement, but not to exceed  
31 10 years, and less any capital investment incentive amounts  
32 previously recaptured.

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

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

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

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

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

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

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

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

39 SEC. 3. Section 51298.5 of the Government Code is amended  
40 to read:

1 51298.5. (a) This chapter shall remain in effect only until  
2 January 1, 2018.

3 (b) A capital investment incentive program established pursuant  
4 to this chapter before January 1, 2018, may remain in effect for  
5 the full term of that program, regardless of the repeal of this  
6 chapter.

7 *SEC. 4. Section 17059.2 of the Revenue and Taxation Code is*  
8 *amended to read:*

9 17059.2. (a) (1) For each taxable year beginning on and after  
10 January 1, 2014, and before January 1, 2025, there shall be allowed  
11 as a credit against the “net tax,” as defined in Section 17039, an  
12 amount as determined by the committee pursuant to paragraph (2)  
13 and approved pursuant to Section 18410.2.

14 (2) The credit under this section shall be allocated by GO-Biz  
15 with respect to the 2013–14 fiscal year through and including the  
16 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
17 with respect to a fiscal year pursuant to this section shall be as set  
18 forth in a written agreement between GO-Biz and the taxpayer and  
19 shall be based on the following factors:

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

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

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

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

28 (E) The incentives available to the taxpayer in this state,  
29 including incentives from the state, local government, and other  
30 entities.

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

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

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

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

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

- 1 (K) The extent to which the anticipated benefit to the state
- 2 exceeds the projected benefit to the taxpayer from the tax credit.
- 3 (3) The written agreement entered into pursuant to paragraph
- 4 (2) shall include:
  - 5 (A) Terms and conditions that include the taxable year or years
  - 6 for which the credit allocated shall be allowed, a minimum
  - 7 compensation level, and a minimum job retention period.
  - 8 (B) Provisions indicating whether the credit is to be allocated
  - 9 in full upon approval or in increments based on mutually agreed
  - 10 upon milestones when satisfactorily met by the taxpayer.
  - 11 (C) Provisions that allow the committee to recapture the credit,
  - 12 in whole or in part, if the taxpayer fails to fulfill the terms and
  - 13 conditions of the written agreement.
  - 14 (b) For purposes of this section:
    - 15 (1) “Committee” means the California Competes Tax Credit
    - 16 Committee established pursuant to Section 18410.2.
    - 17 (2) “GO-Biz” means the Governor’s Office of Business and
    - 18 Economic Development.
    - 19 (c) For purposes of this section, GO-Biz shall do the following:
      - 20 (1) Give priority to a taxpayer whose project or business is
      - 21 located or proposed to be located in an area of high unemployment
      - 22 or poverty.
      - 23 (2) Negotiate with a taxpayer the terms and conditions of
      - 24 proposed written agreements that provide the credit allowed
      - 25 pursuant to this section to a taxpayer.
      - 26 (3) Provide the negotiated written agreement to the committee
      - 27 for its approval pursuant to Section 18410.2.
      - 28 (4) Inform the Franchise Tax Board of the terms and conditions
      - 29 of the written agreement upon approval of the written agreement
      - 30 by the committee.
      - 31 (5) Inform the Franchise Tax Board of any recapture, in whole
      - 32 or in part, of a previously allocated credit upon approval of the
      - 33 recapture by the committee.
      - 34 (6) Post on its Internet Web site all of the following:
        - 35 (A) The name of each taxpayer allocated a credit pursuant to
        - 36 this section.
        - 37 (B) The estimated amount of the investment by each taxpayer.
        - 38 (C) The estimated number of jobs created or retained.
        - 39 (D) The amount of the credit allocated to the taxpayer.

1 (E) The amount of the credit recaptured from the taxpayer, if  
2 applicable.

3 (d) For purposes of this section, the Franchise Tax Board shall  
4 do all of the following:

5 (1) (A) Except as provided in subparagraph (B), review the  
6 books and records of all taxpayers allocated a credit pursuant to  
7 this section to ensure compliance with the terms and conditions  
8 of the written agreement between the taxpayer and GO-Biz.

9 (B) In the case of a taxpayer that is a “small business,” as  
10 defined in Section 17053.73, review the books and records of the  
11 taxpayer allocated a credit pursuant to this section to ensure  
12 compliance with the terms and conditions of the written agreement  
13 between the taxpayer and GO-Biz when, in the sole discretion of  
14 the Franchise Tax Board, a review of those books and records is  
15 appropriate or necessary in the best interests of the state.

16 (2) Notwithstanding Section 19542:

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

20 (B) Provide information to GO-Biz with respect to whether a  
21 taxpayer is a “small business,” as defined in Section 17053.73.

22 (e) In the case where the credit allowed under this section  
23 exceeds the “net tax,” as defined in Section 17039, for a taxable  
24 year, the excess credit may be carried over to reduce the “net tax”  
25 in the following taxable year, and succeeding five taxable years,  
26 if necessary, until the credit has been exhausted.

27 (f) Any recapture, in whole or in part, of a credit approved by  
28 the committee pursuant to Section 18410.2 shall be treated as a  
29 mathematical error appearing on the return. Any amount of tax  
30 resulting from that recapture shall be assessed by the Franchise  
31 Tax Board in the same manner as provided by Section 19051. The  
32 amount of tax resulting from the recapture shall be added to the  
33 tax otherwise due by the taxpayer for the taxable year in which  
34 the committee’s recapture determination occurred.

35 (g) (1) The aggregate amount of credit that may be allocated  
36 in any fiscal year pursuant to this section and Section 23689 shall  
37 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
38 less the amount specified in ~~subparagraph (D)~~ *subparagraphs (D)*  
39 *and (E)*:

1 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
2 year, one hundred fifty million dollars (\$150,000,000) for the  
3 2014–15 fiscal year, and two hundred million dollars  
4 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
5 inclusive.

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

8 (C) The amount of any previously allocated credits that have  
9 been recaptured.

10 (D) The amount estimated by the Director of Finance, in  
11 consultation with the Franchise Tax Board and the State Board of  
12 Equalization, to be necessary to limit the aggregation of the  
13 estimated amount of exemptions claimed pursuant to Section  
14 6377.1 and of the amounts estimated to be claimed pursuant to  
15 this section and Sections 17053.73, 23626, and 23689 to no more  
16 than seven hundred fifty million dollars (\$750,000,000) for either  
17 the current fiscal year or the next fiscal year.

18 (i) The Director of Finance shall notify the Chairperson of the  
19 Joint Legislative Budget Committee of the estimated annual  
20 allocation authorized by this paragraph. Any allocation pursuant  
21 to these provisions shall be made no sooner than 30 days after  
22 written notification has been provided to the Chairperson of the  
23 Joint Legislative Budget Committee and the chairpersons of the  
24 committees of each house of the Legislature that consider  
25 appropriation, or not sooner than whatever lesser time the  
26 Chairperson of the Joint Legislative Budget Committee, or his or  
27 her designee, may determine.

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

30 (E) (i) *For the 2015–16 fiscal year and each fiscal year*  
31 *thereafter, the aggregate amount of credit that may be allocated*  
32 *pursuant to this section and Section 23689 shall be reduced by the*  
33 *amount of credit allowed to all qualified taxpayers pursuant to*  
34 *subparagraph (A) or subparagraph (B) of paragraph (1) of*  
35 *subdivision (c) of Section 23636.*

36 (ii) *If the amount available per fiscal year pursuant to this*  
37 *section and Section 23689 is less than the aggregate amount of*  
38 *credit allowed to qualified taxpayers pursuant to subparagraph*  
39 *(A) or subparagraph (B) of paragraph (1) of subdivision (c) of*  
40 *Section 23636, the aggregate amount allowed pursuant to Section*

1 23636 shall not be reduced and, in addition to the reduction  
2 required by clause (i), the aggregate amount of credit that may be  
3 allocated pursuant to this section and Section 23689 for the next  
4 fiscal year shall be reduced by the amount of that deficit.

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

10 (2) Each fiscal year, 25 percent of the aggregate amount of the  
11 credit that may be allocated pursuant to this section and Section  
12 23689 shall be reserved for small business, as defined in Section  
13 17053.73 or 23626.

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

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

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

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

30 (2) The Franchise Tax Board shall annually provide to the Joint  
31 Legislative Budget Committee, by no later than March 1, a report  
32 of the total dollar amount of the credits claimed under this section  
33 with respect to the relevant fiscal year. The report shall compare  
34 the total dollar amount of credits claimed under this section with  
35 respect to that fiscal year with the department's estimate with  
36 respect to that same fiscal year. If the total dollar amount of credits  
37 claimed for the fiscal year is less than the estimate for that fiscal  
38 year, the report shall identify options for increasing annual claims  
39 of the credit so as to meet estimated amounts.

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

1     ~~SEC. 4.~~

2     SEC. 5. Section 23636 is added to the Revenue and Taxation  
3 Code, to read:

4     23636. (a) For each taxable year beginning on or after January  
5 1, 2015, and before January 1, 2030, a qualified taxpayer shall be  
6 allowed a credit against the “tax,” as defined in Section 23036, in  
7 an amount equal to 17½ percent of qualified wages paid or incurred  
8 by the qualified taxpayer during the taxable year to qualified  
9 full-time employees multiplied by the annual full-time equivalent  
10 ratio.

11     (b) For purposes of this section:

12     (1) “Annual full-time equivalent” means either of the following:

13     (A) In the case of a qualified full-time employee paid hourly  
14 qualified wages, “annual full-time equivalent” means the total  
15 number of hours worked for the qualified taxpayer by the qualified  
16 full-time employee, not to exceed 2,000 hours per employee,  
17 divided by 2,000.

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

22     (2) “Annual full-time equivalent ratio” means a ratio, the  
23 numerator of which is 1,100 and the denominator of which is the  
24 number of a qualified taxpayer’s qualified full-time employees  
25 computed on an annual full-time equivalent basis for the taxable  
26 year. The annual full-time equivalent ratio may not be greater than  
27 one.

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

31     (A) The individual’s services for the qualified taxpayer are at  
32 least 80 percent directly related to the qualified taxpayer’s  
33 subcontract to design, test, manufacture property, or otherwise  
34 support production of property for ultimate use in or as a  
35 component of a new advanced strategic aircraft for the United  
36 States Air Force.

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

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

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

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

13 (5) “Qualified wages” means wages paid or incurred by the  
14 qualified taxpayer during the taxable year with respect to qualified  
15 full-time employees that are direct labor costs, within the meaning  
16 of Section 263A of the Internal Revenue Code, relating to  
17 capitalization and inclusion in inventory costs of certain expenses,  
18 allocable to property manufactured in this state by the qualified  
19 taxpayer for ultimate use in or as a component of a new advanced  
20 strategic aircraft for the United States Air Force.

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

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

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

33 (A) In years one through five of the credit, the total aggregate  
34 amount of the credit that may be allowed to all qualified taxpayers  
35 pursuant to this section shall not exceed twenty- five million dollars  
36 (\$25,000,000) per calendar year.

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

1 (C) In years 11 through 15 of the credit, the total aggregate  
2 amount of the credit that may be allowed to all qualified taxpayers  
3 pursuant to this section shall not exceed thirty-one million dollars  
4 (\$31,000,000) per calendar year.

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

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

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

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

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

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

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

29 (2) The Franchise Tax Board may also prescribe rules,  
30 guidelines, or procedures necessary or appropriate to carry out the  
31 purposes of this section. Chapter 3.5 (commencing with Section  
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
33 shall not apply to any rule, guideline, or procedure prescribed by  
34 the Franchise Tax Board pursuant to this section.

35 (i) This section shall remain in effect only until December 1,  
36 2030, and as of that date is repealed.

37 *SEC. 6. Section 23689 of the Revenue and Taxation Code is*  
38 *amended to read:*

39 23689. (a) (1) For each taxable year beginning on and after  
40 January 1, 2014, and before January 1, 2025, there shall be allowed

1 as a credit against the “tax,” as defined in Section 23036, an amount  
2 as determined by the committee pursuant to paragraph (2) and  
3 approved pursuant to Section 18410.2.

4 (2) The credit under this section shall be allocated by GO-Biz  
5 with respect to the 2013–14 fiscal year through and including the  
6 2017–18 fiscal year. The amount of credit allocated to a taxpayer  
7 with respect to a fiscal year pursuant to this section shall be as set  
8 forth in a written agreement between GO-Biz and the taxpayer and  
9 shall be based on the following factors:

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

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

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

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

18 (E) The incentives available to the taxpayer in the state,  
19 including incentives from the state, local government and other  
20 entities.

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

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

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

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

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

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

32 (3) The written agreement entered into pursuant to paragraph  
33 (2) shall include:

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

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

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

4 (b) For purposes of this section:

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

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

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

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

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

16 (3) Provide the negotiated written agreement to the committee  
17 for its approval pursuant to Section 18410.2.

18 (4) Inform the Franchise Tax Board of the terms and conditions  
19 of the written agreement upon approval of the written agreement  
20 by the committee.

21 (5) Inform the Franchise Tax Board of any recapture, in whole  
22 or in part, of a previously allocated credit upon approval of the  
23 recapture by the committee.

24 (6) Post on its Internet Web site all of the following:

25 (A) The name of each taxpayer allocated a credit pursuant to  
26 this section.

27 (B) The estimated amount of the investment by each taxpayer.

28 (C) The estimated number of jobs created or retained.

29 (D) The amount of the credit allocated to the taxpayer.

30 (E) The amount of the credit recaptured from the taxpayer, if  
31 applicable.

32 (d) For purposes of this section, the Franchise Tax Board shall  
33 do all of the following:

34 (1) (A) Except as provided in subparagraph (B), review the  
35 books and records of all taxpayers allocated a credit pursuant to  
36 this section to ensure compliance with the terms and conditions  
37 of the written agreement between the taxpayer and GO-Biz.

38 (B) In the case of a taxpayer that is a “small business,” as  
39 defined in Section 23626, review the books and records of the  
40 taxpayer allocated a credit pursuant to this section to ensure

1 compliance with the terms and conditions of the written agreement  
2 between the taxpayers and GO-Biz when, in the sole discretion of  
3 the Franchise Tax Board, a review of those books and records is  
4 appropriate or necessary in the best interests of the state.

5 (2) Notwithstanding Section 19542:

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

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

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

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

24 (g) (1) The aggregate amount of credit that may be allocated  
25 in any fiscal year pursuant to this section and Section 17059.2 shall  
26 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
27 less the amount specified in ~~subparagraph (D)~~ *subparagraphs (D)*  
28 *and (E)*:

29 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
30 year, one hundred fifty million dollars (\$150,000,000) for the  
31 2014–15 fiscal year, and two hundred million dollars  
32 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,  
33 inclusive.

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

36 (C) The amount of any previously allocated credits that have  
37 been recaptured.

38 (D) The amount estimated by the Director of Finance, in  
39 consultation with the Franchise Tax Board and the State Board of  
40 Equalization, to be necessary to limit the aggregation of the

1 estimated amount of exemptions claimed pursuant to Section  
2 6377.1 and of the amounts estimated to be claimed pursuant to  
3 this section and Sections 17053.73, 17059.2, and 23626 to no more  
4 than seven hundred fifty million dollars (\$750,000,000) for either  
5 the current fiscal year or the next fiscal year.

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

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

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

24 *(ii) If the amount available per fiscal year pursuant to this*  
25 *section and Section 17059.2 is less than the aggregate amount*  
26 *allowed to qualified taxpayers pursuant to subparagraph (A) or*  
27 *subparagraph (B) of paragraph (1) of subdivision (c) of Section*  
28 *23636, the aggregate amount allowed pursuant to Section 23636*  
29 *shall not be reduced and, in addition to the reduction required by*  
30 *clause (i), the aggregate amount available pursuant to this section*  
31 *and Section 17059.2 for the next fiscal year shall be reduced by*  
32 *the amount of that deficit.*

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

38 (2) Each fiscal year, 25 percent of the aggregate amount of the  
39 credit that may be allocated pursuant to this section and Section

1 17059.2 shall be reserved for “small business,” as defined in  
2 Section 17053.73 or 23626.

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

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

12 (i) (1) A written agreement between GO-Biz and a taxpayer  
13 with respect to the credit authorized by this section shall not  
14 restrict, broaden, or otherwise alter the ability of the taxpayer to  
15 assign that credit or any portion thereof in accordance with Section  
16 23663.

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

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

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

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

35 ~~SEC. 5.~~

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

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

O