

ASSEMBLY BILL

No. 2055

Introduced by Assembly Member Gipson

February 17, 2016

An act to amend Sections 17059.2 and 23689 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as introduced, Gipson. Income taxation: credits: California competes.

Existing law allows a credit against the taxes imposed under the Corporation Tax Law and the Personal Income Tax Law for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credits allocated to taxpayers to a specified sum per fiscal year through 2017–18 and reserves 25% of that amount for small businesses, as defined. Existing law authorizes the Director of Finance to increase the aggregate amount of the economic development credits that may be allocated to taxpayers each fiscal year by \$25 million per fiscal year through the 2017–18 fiscal year.

This bill would, beginning in the 2018–19 fiscal year, reserve 25% of the aggregate amount of credits for taxpayers that make qualified sustainable freight investments, as defined, and would require the Franchise Tax Board to review the books and records of these taxpayers

to ensure compliance with the taxpayer’s written agreement with GO-Biz. The bill would also make findings relating to California’s seaports and harbors and zero-emissions and near-zero-emissions technology.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Our state’s waterfront has infrastructure needs that cannot
4 be met by private investment alone, and therefore public financing
5 mechanisms are required to build the new public works needed to
6 support new commercial and industrial development in our seaports
7 and harbors. This need is compounded by the additional expenses
8 which accompany investment in the next generation of
9 zero-emissions and near-zero-emissions equipment and supporting
10 infrastructure at marine terminals in California’s public ports.

11 (b) The seaports and harbors of California are valuable assets
12 of the state that provide special maritime, navigational, recreational,
13 cultural, and historical benefits to the people of the state and the
14 management and development of these seaports and harbors are
15 matters of statewide significance. The investment in the state’s
16 seaports and harbors by providing a financing mechanism, through
17 the use of tax credits, is a matter of statewide importance that will
18 further the purposes of the public trust.

19 (c) This legislation is necessary to further incentivize the earliest
20 possible investment in, and adoption of, zero-emissions and
21 near-zero-emissions technology at California’s public seaports.
22 Companies should be encouraged to take on the additional costs
23 of purchasing and maintaining zero-emissions equipment and
24 supporting infrastructure in partnership with the state to achieve
25 the state’s emissions reduction goals.

26 SEC. 2. Section 17059.2 of the Revenue and Taxation Code
27 is amended to read:

28 17059.2. (a) (1) For each taxable year beginning on and after
29 January 1, 2014, and before January 1, 2025, there shall be allowed
30 as a credit against the “net tax,” as defined in Section 17039, an

1 amount as determined by the committee pursuant to paragraph (2)
2 and approved pursuant to Section 18410.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Provisions indicating whether the credit is to be allocated
37 in full upon approval or in increments based on mutually agreed
38 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 17053.73, 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 taxpayer 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 17053.73.

11 (e) In the case where the credit allowed under this section
12 exceeds the “net tax,” as defined in Section 17039, for a taxable
13 year, the excess credit may be carried over to reduce the “net tax”
14 in the following taxable year, and succeeding five taxable years,
15 if 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 23689 shall
26 be an amount equal to the sum of subparagraphs (A), (B), and (C),
27 less the amount specified in subparagraphs (D) and (E):

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

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

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

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

1 6377.1 and of the amounts estimated to be claimed pursuant to
2 this section and Sections 17053.73, 23626, and 23689 to no more
3 than seven hundred fifty million dollars (\$750,000,000) for either
4 the current fiscal year or the next fiscal year.

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

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

17 (E) (i) For the 2015–16 fiscal year and each fiscal year
18 thereafter, the amount of credit estimated by the Director of Finance
19 to be allowed to all qualified taxpayers for that fiscal year pursuant
20 to subparagraph (A) or subparagraph (B) of paragraph (1) of
21 subdivision (c) of Section 23636.

22 (ii) If the amount available per fiscal year pursuant to this section
23 and Section 23689 is less than the aggregate amount of credit
24 estimated by the Director of Finance to be allowed to qualified
25 taxpayers pursuant to subparagraph (A) or subparagraph (B) of
26 paragraph (1) of subdivision (c) of Section 23636, the aggregate
27 amount allowed pursuant to Section 23636 shall not be reduced
28 and, in addition to the reduction required by clause (i), the
29 aggregate amount of credit that may be allocated pursuant to this
30 section and Section 23689 for the next fiscal year shall be reduced
31 by the amount of that deficit.

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

37 (2) (A) In addition to the other amounts determined pursuant
38 to paragraph (1), the Director of Finance may increase the
39 aggregate amount of credit that may be allocated pursuant to this
40 section and Section 23689 by up to twenty-five million dollars

1 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The
2 amount of any increase made pursuant to this paragraph, when
3 combined with any increase made pursuant to paragraph (2) of
4 subdivision (g) of Section 23689, shall not exceed twenty-five
5 million dollars (\$25,000,000) per fiscal year through the 2017–18
6 fiscal year.

7 (B) It is the intent of the Legislature that the Director of Finance
8 increase the aggregate amount under subparagraph (A) in order to
9 mitigate the reduction of the amount available due to the credit
10 allowed to all qualified taxpayers pursuant to subparagraph (A) or
11 (B) of paragraph (1) of subdivision (c) of Section 23636.

12 (3) Each fiscal year, 25 percent of the aggregate amount of the
13 credit that may be allocated pursuant to this section and Section
14 23689 shall be reserved for ~~small business~~, “*small business*,” as
15 defined in Section 17053.73 or 23626.

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

19 (5) (A) *Each fiscal year, beginning with the 2018–19 fiscal*
20 *year, 25 percent of the aggregate amount of the credit that may*
21 *be allocated pursuant to this section and Section 23689 shall be*
22 *reserved for taxpayers that make qualified sustainable freight*
23 *investments.*

24 (B) *For purposes of this paragraph, “qualified sustainable*
25 *freight investment” means the purchase or installation, or a*
26 *proposed future purchase or installation, of zero-emissions and*
27 *near-zero-emissions equipment and supporting infrastructure for*
28 *use by or at a marine terminal in a California seaport.*

29 (C) *For purposes of this paragraph, the Franchise Tax Board*
30 *shall review the books and records of the taxpayer allocated a*
31 *credit amount pursuant to this paragraph to ensure compliance*
32 *with the terms and agreements of the written agreement and notify*
33 *GO-Biz of a possible breach of the written agreement by a taxpayer*
34 *and provide detailed information regarding the basis for that*
35 *determination.*

36 (h) GO-Biz may prescribe rules and regulations as necessary to
37 carry out the purposes of this section. Any rule or regulation
38 prescribed pursuant to this section may be by adoption of an
39 emergency regulation in accordance with Chapter 3.5 (commencing

1 with Section 11340) of Part 1 of Division 3 of Title 2 of the
2 Government Code.

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

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

10 (2) The Franchise Tax Board shall annually provide to the Joint
11 Legislative Budget Committee, by no later than March 1, a report
12 of the total dollar amount of the credits claimed under this section
13 with respect to the relevant fiscal year. The report shall compare
14 the total dollar amount of credits claimed under this section with
15 respect to that fiscal year with the department’s estimate with
16 respect to that same fiscal year. If the total dollar amount of credits
17 claimed for the fiscal year is less than the estimate for that fiscal
18 year, the report shall identify options for increasing annual claims
19 of the credit so as to meet estimated amounts.

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

21 SEC. 3. Section 23689 of the Revenue and Taxation Code is
22 amended to read:

23 23689. (a) (1) For each taxable year beginning on and after
24 January 1, 2014, and before January 1, 2025, there shall be allowed
25 as a credit against the “tax,” as defined in Section 23036, an amount
26 as determined by the committee pursuant to paragraph (2) and
27 approved pursuant to Section 18410.2.

28 (2) The credit under this section shall be allocated by GO-Biz
29 with respect to the 2013–14 fiscal year through and including the
30 2017–18 fiscal year. The amount of credit allocated to a taxpayer
31 with respect to a fiscal year pursuant to this section shall be as set
32 forth in a written agreement between GO-Biz and the taxpayer and
33 shall be based on the following factors:

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

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

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

- 1 (D) The extent of unemployment or poverty in the area
- 2 according to the United States Census in which the taxpayer's
- 3 project or business is proposed or located.
- 4 (E) The incentives available to the taxpayer in this state,
- 5 including incentives from the state, local government, and other
- 6 entities.
- 7 (F) The incentives available to the taxpayer in other states.
- 8 (G) The duration of the proposed project and the duration the
- 9 taxpayer commits to remain in this state.
- 10 (H) The overall economic impact in this state of the taxpayer's
- 11 project or business.
- 12 (I) The strategic importance of the taxpayer's project or business
- 13 to the state, region, or locality.
- 14 (J) The opportunity for future growth and expansion in this state
- 15 by the taxpayer's business.
- 16 (K) The extent to which the anticipated benefit to the state
- 17 exceeds the projected benefit to the taxpayer from the tax credit.
- 18 (3) The written agreement entered into pursuant to paragraph
- 19 (2) shall include:
 - 20 (A) Terms and conditions that include the taxable year or years
 - 21 for which the credit allocated shall be allowed, a minimum
 - 22 compensation level, and a minimum job retention period.
 - 23 (B) Provisions indicating whether the credit is to be allocated
 - 24 in full upon approval or in increments based on mutually agreed
 - 25 upon milestones when satisfactorily met by the taxpayer.
 - 26 (C) Provisions that allow the committee to recapture the credit,
 - 27 in whole or in part, if the taxpayer fails to fulfill the terms and
 - 28 conditions of the written agreement.
 - 29 (b) For purposes of this section:
 - 30 (1) "Committee" means the California Competes Tax Credit
 - 31 Committee established pursuant to Section 18410.2.
 - 32 (2) "GO-Biz" means the Governor's Office of Business and
 - 33 Economic Development.
 - 34 (c) For purposes of this section, GO-Biz shall do the following:
 - 35 (1) Give priority to a taxpayer whose project or business is
 - 36 located or proposed to be located in an area of high unemployment
 - 37 or poverty.
 - 38 (2) Negotiate with a taxpayer the terms and conditions of
 - 39 proposed written agreements that provide the credit allowed
 - 40 pursuant to this section to a taxpayer.

- 1 (3) Provide the negotiated written agreement to the committee
2 for its approval pursuant to Section 18410.2.
- 3 (4) Inform the Franchise Tax Board of the terms and conditions
4 of the written agreement upon approval of the written agreement
5 by the committee.
- 6 (5) Inform the Franchise Tax Board of any recapture, in whole
7 or in part, of a previously allocated credit upon approval of the
8 recapture by the committee.
- 9 (6) Post on its Internet Web site all of the following:
- 10 (A) The name of each taxpayer allocated a credit pursuant to
11 this section.
- 12 (B) The estimated amount of the investment by each taxpayer.
- 13 (C) The estimated number of jobs created or retained.
- 14 (D) The amount of the credit allocated to the taxpayer.
- 15 (E) The amount of the credit recaptured from the taxpayer, if
16 applicable.
- 17 (d) For purposes of this section, the Franchise Tax Board shall
18 do all of the following:
- 19 (1) (A) Except as provided in subparagraph (B), review the
20 books and records of all taxpayers allocated a credit pursuant to
21 this section to ensure compliance with the terms and conditions
22 of the written agreement between the taxpayer and GO-Biz.
- 23 (B) In the case of a taxpayer that is a “small business,” as
24 defined in Section 23626, review the books and records of the
25 taxpayer allocated a credit pursuant to this section to ensure
26 compliance with the terms and conditions of the written agreement
27 between the taxpayer and GO-Biz when, in the sole discretion of
28 the Franchise Tax Board, a review of those books and records is
29 appropriate or necessary in the best interests of the state.
- 30 (2) Notwithstanding Section 19542:
- 31 (A) Notify GO-Biz of a possible breach of the written agreement
32 by a taxpayer and provide detailed information regarding the basis
33 for that determination.
- 34 (B) Provide information to GO-Biz with respect to whether a
35 taxpayer is a “small business,” as defined in Section 23626.
- 36 (e) In the case where the credit allowed under this section
37 exceeds the “tax,” as defined in Section 23036, for a taxable year,
38 the excess credit may be carried over to reduce the “tax” in the
39 following taxable year, and succeeding five taxable years, if
40 necessary, until the credit has been exhausted.

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

9 (g) (1) The aggregate amount of credit that may be allocated
10 in any fiscal year pursuant to this section and Section 17059.2 shall
11 be an amount equal to the sum of subparagraphs (A), (B), and (C),
12 less the amount specified in subparagraphs (D) and (E):

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

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

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

22 (D) The amount estimated by the Director of Finance, in
23 consultation with the Franchise Tax Board and the State Board of
24 Equalization, to be necessary to limit the aggregation of the
25 estimated amount of exemptions claimed pursuant to Section
26 6377.1 and of the amounts estimated to be claimed pursuant to
27 this section and Sections 17053.73, 17059.2, and 23626 to no more
28 than seven hundred fifty million dollars (\$750,000,000) for either
29 the current fiscal year or the next fiscal year.

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

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

3 (E) (i) For the 2015–16 fiscal year and each fiscal year
 4 thereafter, the amount of credit estimated by the Director of Finance
 5 to be allowed to all qualified taxpayers for that fiscal year pursuant
 6 to subparagraph (A) or subparagraph (B) of paragraph (1) of
 7 subdivision (c) of Section 23636.

8 (ii) If the amount available per fiscal year pursuant to this section
 9 and Section 17059.2 is less than the aggregate amount of credit
 10 estimated by the Director of Finance to be allowed to qualified
 11 taxpayers pursuant to subparagraph (A) or subparagraph (B) of
 12 paragraph (1) of subdivision (c) of Section 23636, the aggregate
 13 amount allowed pursuant to Section 23636 shall not be reduced
 14 and, in addition to the reduction required by clause (i), the
 15 aggregate amount of credit that may be allocated pursuant to this
 16 section and Section 17059.2 for the next fiscal year shall be reduced
 17 by the amount of that deficit.

18 (iii) It is the intent of the Legislature that the reductions specified
 19 in this subparagraph of the aggregate amount of credit that may
 20 be allocated pursuant to this section and Section 17059.2 shall
 21 continue if the repeal dates of the credits allowed by this section
 22 and Section 17059.2 are removed or extended.

23 (2) (A) In addition to the other amounts determined pursuant
 24 to paragraph (1), the Director of Finance may increase the
 25 aggregate amount of credit that may be allocated pursuant to this
 26 section and Section 17059.2 by up to twenty-five million dollars
 27 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The
 28 amount of any increase made pursuant to this paragraph, when
 29 combined with any increase made pursuant to paragraph (2) of
 30 subdivision (g) of Section 17059.2, shall not exceed twenty-five
 31 million dollars (\$25,000,000) per fiscal year through the 2017–18
 32 fiscal year.

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

38 (3) 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 (4) Each fiscal year, no more than 20 percent of the aggregate
4 amount of the credit that may be allocated pursuant to this section
5 shall be allocated to any one taxpayer.

6 (5) (A) *Each fiscal year, beginning with the 2018–19 fiscal*
7 *year, 25 percent of the aggregate amount of the credit that may*
8 *be allocated pursuant to this section and Section 23689 shall be*
9 *reserved for taxpayers that make qualified sustainable freight*
10 *investments.*

11 (B) *For purposes of this paragraph, “qualified sustainable*
12 *freight investment” means the purchase or installation, or a*
13 *proposed future purchase or installation, of zero-emissions and*
14 *near-zero-emissions equipment and supporting infrastructure for*
15 *use by or at a marine terminal in a California seaport.*

16 (C) *For purposes of this paragraph, the Franchise Tax Board*
17 *shall review the books and records of the taxpayer allocated a*
18 *credit amount pursuant to this paragraph to ensure compliance*
19 *with the terms and agreements of the written agreement and notify*
20 *GO-Biz of a possible breach of the written agreement by a taxpayer*
21 *and provide detailed information regarding the basis for that*
22 *determination.*

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

29 (i) (1) A written agreement between GO-Biz and a taxpayer
30 with respect to the credit authorized by this section shall not
31 restrict, broaden, or otherwise alter the ability of the taxpayer to
32 assign that credit or any portion thereof in accordance with Section
33 23663.

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

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

1 (2) The Franchise Tax Board shall annually provide to the Joint
2 Legislative Budget Committee, by no later than March 1, a report
3 of the total dollar amount of the credits claimed under this section
4 with respect to the relevant fiscal year. The report shall compare
5 the total dollar amount of credits claimed under this section with
6 respect to that fiscal year with the department's estimate with
7 respect to that same fiscal year. If the total dollar amount of credits
8 claimed for the fiscal year is less than the estimate for that fiscal
9 year, the report shall identify options for increasing annual claims
10 of the credit so as to meet estimated amounts.

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

12 SEC. 4. This act provides for a tax levy within the meaning of
13 Article IV of the Constitution and shall go into immediate effect.