

ASSEMBLY BILL

No. 2506

Introduced by Assembly Member V. Manuel Pérez
(Coauthors: Assembly Members Fuentes, Galgiani, Logue, and
Nestande)
(Coauthors: Senators Calderon, Strickland, and Vargas)

February 24, 2012

An act to amend Section 11346.1 of, and to add Article 5.5 (commencing with Section 11348.5) to Chapter 3.5 of Part 1 of, and to add Part 4.8 (commencing with Section 13999.7) to, Division 3 of Title 2 of, the Government Code, and to amend Sections 17052.12 and 23609 of, and to add Sections 6377, 17053.87, and 23687 to, the Revenue and Taxation Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2506, as introduced, V. Manuel Pérez. State government.

(1) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would also require state agencies to submit these regulatory actions to the Legislature, which would be authorized to submit a regulatory action to the appropriate policy committee in each house for review. The bill would authorize the policy committee to either make recommendations to the agency or to send the action to the floor of either house, which could reject the regulatory action by a majority vote, as specified.

(2) Existing law provides for the establishment of the California Travel and Tourism Commission as a nonprofit mutual benefit corporation, as specified.

This bill would provide for the establishment of 6 regional innovation and job creation boards as nonprofit mutual benefit corporations, to perform certain functions, and would require the Lieutenant Governor to appoint 12 members to each board, as specified. The bill would require that the staff of each board be employees solely of the commission.

(3) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes.

On and after January 1, 2013, this bill would exempt from those taxes the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of tangible personal property, as specified.

(4) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit for certain research and development expenses, as provided.

This bill would, for taxable years commencing on and after January 1, 2013, increase the credit for research and development expenses, as provided, and would require taxpayers utilizing these credits on or after that date to report specified information to the Franchise Tax Board.

This bill would, for taxable years beginning on or after January 1, 2013, authorize a credit against those taxes for a qualified taxpayer, as defined, of 40% of the amount of a qualified contract price that is paid to the qualified taxpayer in that taxable year for a contract between a business entity and a postsecondary educational institution for the business entity to provide curriculum or research leading to job opportunities in the private sector, or consultation services associated with the establishment of curriculum or research leading to job opportunities in the private sector, where the business entity and the postsecondary educational institution agree that there is a substantial

potential for the future employment of students as a result of the contract.

(5) This bill would provide that the provisions of this bill are severable.

(6) Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

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

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

- 1 SECTION 1. The Legislature hereby finds and declares:
- 2 (a) California, in the last 10 years has declined from the sixth
- 3 largest economy in the world to the ninth, now behind Brazil.
- 4 During that time, manufacturing declined in California from 1.865
- 5 million jobs to 1.257 million jobs.
- 6 (b) California has experienced continual budget deficits
- 7 beginning with the “dot com” bust which occurred in 2000, and
- 8 has never fully recovered. Every year, the Legislature has had to
- 9 grapple with too few revenues to meet a continuing demand for
- 10 public services.
- 11 (c) The solution to California’s decline in its economic status,
- 12 and thus, lack of revenues, is not simply to cut the budget and raise
- 13 taxes. Instead, it lies in developing a long-term economic plan for
- 14 the state that envisions state government becoming a better working
- 15 partner to attract private sector capital to spur economic
- 16 development and job growth.
- 17 (d) California needs to compete globally. It needs to expand its
- 18 leadership as an exporter of goods. California needs to recognize
- 19 its biggest asset in combating a fatigued economy is its innovative
- 20 human capital; it needs to recognize that the private sector, through

1 the “Innovation Economy” must be incentivized to reach new
2 heights and growth potential. State and local government needs to
3 be the Innovation Economy’s partner and not a roadblock to
4 success.

5 (e) California is uniquely positioned to unleash its full economic
6 potential. We see on a daily basis the convergence of innovative
7 technologies being integrated into our daily lives that most
8 Californian’s take for granted, because they were invented and
9 developed in California: new advancements in biopharmaceuticals
10 that improve people’s lives on a daily basis, advancements in smart
11 phone technology, and Internet Web sites that allow Californians
12 to be connected to the world have predominately been developed
13 in California.

14 (f) California needs to invest in the Innovation Economy by
15 eliminating roadblocks in state law and regulation and developing
16 a tax system that rewards capital expenditures to ensure the private
17 sector will invest its financial capital in combination with the
18 intellectual capital that California has to offer through its education
19 system, in particular its universities.

20 SEC. 2. Section 11346.1 of the Government Code is amended
21 to read:

22 11346.1. (a) (1) The adoption, amendment, or repeal of an
23 emergency regulation is not subject to any provision of this article
24 or Article 6 (commencing with Section 11349), except this section
25 and Sections 11348.5, 11349.5, and 11349.6.

26 (2) At least five working days before submitting an emergency
27 regulation to the office, the adopting agency shall, except as
28 provided in paragraph (3), send a notice of the proposed emergency
29 action to every person who has filed a request for notice of
30 regulatory action with the agency. The notice shall include both
31 of the following:

32 (A) The specific language proposed to be adopted.

33 (B) The finding of emergency required by subdivision (b).

34 (3) An agency is not required to provide notice pursuant to
35 paragraph (2) if the emergency situation clearly poses such an
36 immediate, serious harm that delaying action to allow public
37 comment would be inconsistent with the public interest.

38 (b) (1) Except as provided in subdivision (c), if a state agency
39 makes a finding that the adoption of a regulation or order of repeal
40 is necessary to address an emergency, the regulation or order of

1 repeal may be adopted as an emergency regulation or order of
2 repeal.

3 (2) Any finding of an emergency shall include a written
4 statement that contains the information required by paragraphs (2)
5 to (6), inclusive, of subdivision (a) of Section 11346.5 and a
6 description of the specific facts demonstrating the existence of an
7 emergency and the need for immediate action, and demonstrating,
8 by substantial evidence, the need for the proposed regulation to
9 effectuate the statute being implemented, interpreted, or made
10 specific and to address only the demonstrated emergency. The
11 finding of emergency shall also identify each technical, theoretical,
12 and empirical study, report, or similar document, if any, upon
13 which the agency relies. The enactment of an urgency statute shall
14 not, in and of itself, constitute a need for immediate action.

15 A finding of emergency based only upon expediency,
16 convenience, best interest, general public need, or speculation,
17 shall not be adequate to demonstrate the existence of an emergency.
18 If the situation identified in the finding of emergency existed and
19 was known by the agency adopting the emergency regulation in
20 sufficient time to have been addressed through nonemergency
21 regulations adopted in accordance with the provisions of Article
22 5 (commencing with Section 11346), the finding of emergency
23 shall include facts explaining the failure to address the situation
24 through nonemergency regulations.

25 (3) The statement and the regulation or order of repeal shall be
26 filed immediately with the office.

27 (c) Notwithstanding any other provision of law, no emergency
28 regulation that is a building standard shall be filed, nor shall the
29 building standard be effective, unless the building standard is
30 submitted to the California Building Standards Commission, and
31 is approved and filed pursuant to Sections 18937 and 18938 of the
32 Health and Safety Code.

33 (d) The emergency regulation or order of repeal shall become
34 effective upon filing or upon any later date specified by the state
35 agency in a written instrument filed with, or as a part of, the
36 regulation or order of repeal.

37 (e) No regulation, amendment, or order of repeal initially
38 adopted as an emergency regulatory action shall remain in effect
39 more than 180 days unless the adopting agency has complied with
40 Sections 11346.2 to 11347.3, inclusive, either before adopting an

1 emergency regulation or within the 180-day period. The adopting
2 agency, prior to the expiration of the 180-day period, shall transmit
3 to the office for filing with the Secretary of State the adopted
4 regulation, amendment, or order of repeal, the rulemaking file,
5 and a certification that Sections 11346.2 to 11347.3, inclusive,
6 were complied with either before the emergency regulation was
7 adopted or within the 180-day period.

8 (f) If an emergency amendment or order of repeal is filed and
9 the adopting agency fails to comply with subdivision (e), the
10 regulation as it existed prior to the emergency amendment or order
11 of repeal shall thereupon become effective and after notice to the
12 adopting agency by the office shall be reprinted in the California
13 Code of Regulations.

14 (g) If a regulation is originally adopted and filed as an
15 emergency and the adopting agency fails to comply with
16 subdivision (e), this failure shall constitute a repeal of the
17 regulation and after notice to the adopting agency by the office,
18 shall be deleted.

19 (h) The office may approve not more than two readoptions, each
20 for a period not to exceed 90 days, of an emergency regulation
21 that is the same as or substantially equivalent to an emergency
22 regulation previously adopted by that agency. Readoption shall be
23 permitted only if the agency has made substantial progress and
24 proceeded with diligence to comply with subdivision (e).

25 SEC. 3. Article 5.5 (commencing with Section 11348.5) is
26 added to Chapter 3.5 of Part 1 of Division 3 of Title 2 of the
27 Government Code, to read:

28
29 Article 5.5. Legislative Review of Proposed Regulations
30

31 11348.5. (a) (1) Every state agency subject to Section 11346.9
32 shall submit the information described in Section 11346.9 to the
33 Legislature 60 days prior to submitting that information to the
34 office pursuant to Section 11346.9.

35 (2) Every state agency required to submit a statement and
36 regulation or order of repeal to the office pursuant to paragraph
37 (3) of subdivision (b) of Section 11346.1 shall concurrently submit
38 the statement and regulation or order of repeal to the Legislature.

39 (b) The Legislature may refer information submitted pursuant
40 to subdivision (a) to the appropriate policy committee in each

1 house of the Legislature, which may review the information and
2 take any of the following actions:

3 (1) Make recommendations regarding the regulatory action to
4 the agency. In the event that recommendations are made, they shall
5 not be binding and shall not preclude the operation of any other
6 provision of this chapter.

7 (2) Refer the regulatory action to the floor of either house, which
8 may reject the regulatory action by a majority vote. If the regulatory
9 action is rejected pursuant to this paragraph, it shall be returned
10 to the agency, and may be rewritten and resubmitted within 120
11 days of the rejection. If the regulatory action is not rejected
12 pursuant to this paragraph, it shall not be deemed approved and it
13 shall not preclude the application of any other provision of this
14 chapter.

15 (3) Take no action regarding the regulatory action.

16 SEC. 4. Part 4.8 (commencing with Section 13999.7) is added
17 to Division 3 of Title 2 of the Government Code, to read:

18
19 **PART 4.8. INNOVATION AND JOB CREATION BOARDS**
20

21 13999.7. The following innovation and job creation boards are
22 hereby established as nonprofit mutual benefit corporations, and
23 may apply for tax exempt status under Section 501(c)(3) of the
24 Internal Revenue Code, if otherwise eligible:

25 (a) The San Diego County Innovation and Job Creation Board.
26 (b) The Orange County Innovation and Job Creation Board.
27 (c) The Los Angeles Innovation and Job Creation Board.
28 (d) The Silicon Valley (Santa Clara County) Innovation and
29 Job Creation Board.

30 (e) The Bay and South Bay Area (San Francisco, Alameda,
31 Contra Costa, and San Mateo Counties) Innovation and Job
32 Creation Board.

33 (f) The Central Valley (Stanislaus, Fresno, and Merced Counties)
34 Innovation and Job Creation Board.

35 13999.71. The Lieutenant Governor shall appoint the members
36 of each board, which shall consist of the following:

37 (a) One startup entrepreneur representative.
38 (b) One representative of a mature industry.
39 (c) One biopharmaceutical or pharmaceutical industry
40 representative.

- 1 (d) One entertainment industry representative.
- 2 (e) One venture capital representative.
- 3 (f) One technology industry representative.
- 4 (g) One representative of a business incubator.
- 5 (h) One local government elected official.
- 6 (i) One small business representative.
- 7 (j) One transportation industry representative.
- 8 (k) One energy industry representative.
- 9 (l) One organized labor representative.

10 13999.72. Each board shall be a separate, independent
11 California nonprofit mutual benefit corporation. The staff of each
12 board shall be employees solely of the commission, and the
13 procedures adopted by each board shall not be subject to the
14 Administrative Procedure Act (Chapter 3.5 (commencing with
15 Section 11340) of Part 1).

16 13999.73. The State of California and any of its officers, agents,
17 or employees shall not be liable in any manner for any act or
18 omission of the boards or of their directors, officers, agents, or
19 employees.

20 13999.74. The boards are created to perform the following
21 functions:

22 (a) Provide a local forum in which to exchange ideas regarding
23 the improvement of innovation, technology, and economic job
24 growth in their designated geographic areas.

25 (b) Provide ideas in the form of proposed legislation and local
26 ordinances that will improve job growth and development in their
27 designated areas.

28 (c) Assist in collecting data concerning economic growth and
29 development in their designated areas.

30 SEC. 5. Section 6377 is added to the Revenue and Taxation
31 Code, to read:

32 6377. (a) (1) On and after January 1, 2013, there are exempted
33 from the taxes imposed by this part the gross receipts from the sale
34 of, and the storage, use, or other consumption in this state of
35 tangible personal property purchased for use by a qualified person
36 to be used primarily in any stage of the manufacturing, processing,
37 refining, fabricating, or recycling of tangible personal property,
38 beginning at the point any raw materials are received by the
39 qualified person and introduced into the process and ending at the
40 point at which the manufacturing, processing, refining, fabricating,

1 or recycling has altered property to its completed form, including
2 packaging, if required.

3 (2) The exemption established by this section shall not apply
4 to the gross receipts from the sale of, or the storage, use, or other
5 consumption of, any of the following:

6 (A) Tangible personal property that is used primarily in
7 administration, general management, or marketing.

8 (B) Consumables with a useful life of less than one year.

9 (C) Furniture or inventory or equipment used in the extraction
10 process, or equipment used to store finished products that have
11 completed the manufacturing process.

12 (b) For purposes of this section:

13 (1) "Fabricating" means to make, build, create, produce, or
14 assemble components or property to work in a new or different
15 manner.

16 (2) "Manufacturing" means the activity of converting or
17 conditioning tangible personal property by changing the form,
18 composition, quality, or character of the tangible personal property
19 for ultimate sale at retail or use in the manufacturing of a product
20 to be ultimately sold at retail. Manufacturing includes any
21 improvements to tangible personal property that result in a greater
22 service life or greater functionality than that of the original tangible
23 personal property. Manufacturing includes the generation of
24 electricity.

25 (3) "Primarily" means 50 percent or more of the time. For
26 purposes of subdivision (a), "primarily" means tangible personal
27 property used 50 percent or more of the time in an activity
28 described in subdivision (a).

29 (4) "Process" means the period beginning at the point at which
30 any raw materials are received by the qualified person and
31 introduced into the manufacturing, processing, refining, fabricating,
32 or recycling activity of the qualified person and ending at the point
33 at which the manufacturing, processing, refining, fabricating, or
34 recycling activity of the qualified person has altered tangible
35 personal property to its completed form, including packaging, if
36 required. Raw materials shall be considered to have been
37 introduced into the process when the raw materials are stored on
38 the same premises where the qualified person's manufacturing,
39 processing, refining, fabricating, or recycling activity is conducted.
40 Raw materials that are stored on premises other than where the

1 qualified person's manufacturing, processing, refining, fabricating,
2 or recycling activity is conducted, shall not be considered to have
3 been introduced into the manufacturing, processing, refining,
4 fabricating, or recycling process.

5 (5) "Processing" means the physical application of the materials
6 and labor necessary to modify or change the characteristics of
7 tangible personal property.

8 (6) "Qualified person" means either of the following:

9 (A) A person that is primarily engaged in those lines of business
10 classified in Industry Groups 3111 to 3399, inclusive, Industry
11 Group 5112, NAICS Industry 221119, or NAICS Industry 541711
12 of the North American Industry Classification System (NAICS)
13 published by the United States Office of Management and Budget
14 (OMB), 2007 edition.

15 (B) An affiliate of a person described in subparagraph (A)
16 provided that the affiliate is a member of the qualified person's
17 unitary group for which a combined report is required to be filed
18 under Article 1 (commencing with Section 25101) of Chapter 17
19 of Part 11.

20 (7) "Refining" means the process of converting a natural
21 resource to an intermediate or finished product.

22 (8) "Tangible personal property" includes, but is not limited to,
23 all of the following:

24 (A) Machinery and equipment, including component parts and
25 contrivances such as belts, shafts, moving parts, and operating
26 structures.

27 (B) All equipment or devices used or required to operate,
28 control, regulate, or maintain the machinery, including, without
29 limitation, computers, data processing equipment, and computer
30 software, together with all repair and replacement parts with a
31 useful life of one or more years therefor, whether purchased
32 separately or in conjunction with a complete machine and
33 regardless of whether the machine or component parts are
34 assembled by the qualified person or another person.

35 (C) Tangible personal property used in pollution control that
36 meets or exceeds standards established by this state or any local
37 or regional governmental agency within this state.

38 (D) Special purpose buildings and foundations used as an
39 integral part of the manufacturing, processing, refining, or
40 fabricating process, or that constitute a research or storage facility

1 used during the manufacturing process. Buildings used solely for
2 warehousing purposes after completion of the manufacturing
3 process are not included.

4 (E) Tangible personal property used in recycling.

5 (c) An exemption shall not be allowed under this section unless
6 the purchaser furnishes the retailer with an exemption certificate,
7 completed in accordance with any instructions or regulations as
8 the board may prescribe, and the retailer retains the exemption
9 certificate in its records. The exemption certificate shall contain
10 the sales price of the tangible personal property, the sale of, or the
11 storage, use, or other consumption of which is exempt pursuant to
12 subdivision (a) and shall be furnished to the board upon request.

13 (d) Notwithstanding subdivision (a), the exemption provided
14 by this section shall not apply to any sale or use of tangible
15 personal property which, within one year from the date of purchase,
16 is either removed from California or converted from an exempt
17 use under subdivision (a) to some other use not qualifying for the
18 exemption or used in a manner not qualifying for exemption.

19 (e) If a purchaser certifies in writing to the seller that the tangible
20 personal property purchased without payment of the tax will be
21 used in a manner entitling the seller to regard the gross receipts
22 from the sale as exempt from the sales tax pursuant to this section,
23 and within one year from the date of purchase, the purchaser (1)
24 removes that tangible personal property outside California, (2)
25 converts that tangible personal property for use in a manner not
26 qualifying for the exemption, or (3) uses that tangible personal
27 property in a manner not qualifying for the exemption, the
28 purchaser shall be liable for payment of sales tax, with applicable
29 interest, as if the purchaser were a retailer making a retail sale of
30 the tangible personal property at the time the tangible personal
31 property is so removed, converted, or used, and the sales price of
32 the tangible personal property to the purchaser shall be deemed
33 the gross receipts from that retail sale.

34 (f) The exemption established by this section shall apply to a
35 lease of tangible personal property classified as a “continuing sale”
36 or “continuing purchase” in accordance with Section 6006.1 or
37 6010.1, and to the rentals payable pursuant to such a lease, provided
38 the lessee is a qualified person and the tangible personal property
39 is used in an activity described in subdivision (a).

(g) At the time necessary information technologies and electronic data warehousing capabilities of the board are sufficiently established, the board shall determine an efficient means by which qualified persons may electronically apply for, and receive, an exemption certificate that contains information that would assist them in complying with this part with respect to the exemption established by this section.

SEC. 6. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(3) For each taxable year beginning on or after January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(4) *For each taxable year beginning on or after January 1, 2013, and before January 1, 2014, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code shall not be modified.*

(5) *For each taxable year beginning on or after January 1, 2014, and before January 1, 2015, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “25 percent.”*

(6) *For each taxable year beginning on or after January 1, 2015, and before January 1, 2016, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “30 percent.”*

1 (7) *For each taxable year beginning on or after January 1,*
2 *2016, and before January 1, 2017, the reference to “20 percent”*
3 *in Section 41(a)(1) of the Internal Revenue Code is modified to*
4 *read “35 percent.”*

5 (8) *For each taxable year beginning on or after January 1,*
6 *2017, the reference to “20 percent” in Section 41(a)(1) of the*
7 *Internal Revenue Code is modified to read “40 percent.”*

8 (c) Section 41(a)(2) of the Internal Revenue Code shall not
9 apply.

10 (d) “Qualified research” shall include only research conducted
11 in California.

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

16 (f) (1) With respect to any expense paid or incurred after the
17 operative date of Section 6378, Section 41(b)(1) of the Internal
18 Revenue Code is modified to exclude from the definition of
19 “qualified research expense” any amount paid or incurred for
20 tangible personal property that is eligible for the exemption from
21 sales or use tax provided by Section 6378.

22 (2) For each taxable year beginning on or after January 1, 1998,
23 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
24 Internal Revenue Code, relating to contract research expenses, is
25 modified to read “this part or Part 11 (commencing with Section
26 23001).”

27 (g) (1) For each taxable year beginning on or after January 1,
28 2000:

29 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
30 the Internal Revenue Code is modified to read “one and forty-nine
31 hundredths of one percent.”

32 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
33 the Internal Revenue Code is modified to read “one and
34 ninety-eight hundredths of one percent.”

35 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
36 the Internal Revenue Code is modified to read “two and forty-eight
37 hundredths of one percent.”

38 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
39 election under Section 41(c)(4)(A) of the Internal Revenue Code
40 may be made for any taxable year of the taxpayer beginning on or

1 after January 1, 1998. That election shall apply to the taxable year
2 for which made and all succeeding taxable years unless revoked
3 with the consent of the Franchise Tax Board.

4 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
5 gross receipts, is modified to take into account only those gross
6 receipts from the sale of property held primarily for sale to
7 customers in the ordinary course of the taxpayer's trade or business
8 that is delivered or shipped to a purchaser within this state,
9 regardless of f.o.b. point or any other condition of the sale.

10 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
11 election of alternative simplified credit, shall not apply.

12 (h) Section 41(h) of the Internal Revenue Code, relating to
13 termination, shall not apply.

14 (i) Section 41(g) of the Internal Revenue Code, relating to
15 special rule for passthrough of credit, is modified by each of the
16 following:

17 (1) The last sentence shall not apply.

18 (2) If the amount determined under Section 41(a) of the Internal
19 Revenue Code for any taxable year exceeds the limitation of
20 Section 41(g) of the Internal Revenue Code, that amount may be
21 carried over to other taxable years under the rules of subdivision
22 (e); except that the limitation of Section 41(g) of the Internal
23 Revenue Code shall be taken into account in each subsequent
24 taxable year.

25 (j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

26 (k) Section 41(b)(3)(D) of the Internal Revenue Code, relating
27 to amounts paid to eligible small businesses, universities, and
28 federal laboratories, shall not apply.

29 (l) Section 41(f)(6), relating to energy research consortium,
30 shall not apply.

31 (m) *For taxable years commencing on and after January 1,*
32 *2013, a taxpayer utilizing a credit pursuant to this section shall*
33 *report to the Franchise Tax Board, in a separate line item, the*
34 *following information:*

35 (1) *Total research and development expenditures made in the*
36 *tax year subject to the credit and the total research and*
37 *development expenditures not subject to the credit.*

38 (2) *For the total research and development expenditures subject*
39 *to the credit, a breakdown of the total amount of the credit*
40 *attributable to each of the following:*

1 (A) *Gross wages.*

2 (B) *Capital expenditures.*

3 (C) *Outside consultants and services.*

4 SEC. 7. Section 17053.87 is added to the Revenue and Taxation
5 Code, to read:

6 17053.87. (a) For each taxable year beginning on or after
7 January 1, 2013, there shall be allowed to a qualified taxpayer as
8 a credit against the “net tax,” as defined in Section 17039, an
9 amount equal to 40 percent of the amount of a qualified contract
10 price that is paid to the qualified taxpayer in that taxable year.

11 (b) For purposes of this section, the following terms have the
12 following meanings:

13 (1) “Qualified contract” means a contract between a business
14 entity and a postsecondary educational institution for the business
15 entity to provide curriculum or research leading to job opportunities
16 in the private sector, or consultation services associated with the
17 establishment of curriculum or research leading to job opportunities
18 in the private sector, where the business entity and the
19 postsecondary educational institution agree that there is a
20 substantial potential for the future employment of students as a
21 result of the contract.

22 (2) “Qualified taxpayer” means a business entity that enters into
23 a contract or memorandum of understanding with a postsecondary
24 educational institution to provide curriculum or research leading
25 to job opportunities in the private sector, or consultation services
26 associated with the establishment of curriculum or research leading
27 to job opportunities in the private sector.

28 (c) In the case where the credit allowed by this section exceeds
29 the “net tax,” the excess may be carried over to reduce the “net
30 tax” in the following taxable year, and succeeding taxable years
31 if necessary, until the credit is exhausted.

32 (d) (1) The Franchise Tax Board may prescribe rules,
33 guidelines, or procedures necessary or appropriate to carry out the
34 purposes of this section.

35 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
36 Division 3 of Title 2 of the Government Code does not apply to
37 any standard, criterion, procedure, determination, rule, notice, or
38 guideline established or issued by the Franchise Tax Board
39 pursuant to this section.

SEC. 8. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “tax” (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(2) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “12 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(4) *For each taxable year beginning on or after January 1, 2013, and before January 1, 2014, both of the following shall apply:*

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code shall not be modified.

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “29 percent.”

1 (5) For each taxable year beginning on or after January 1,
2 2014, and before January 1, 2015, both of the following shall
3 apply:

4 (A) The reference to “20 percent” in Section 41(a)(1) of the
5 Internal Revenue Code is modified to read “25 percent.”

6 (B) The reference to “20 percent” in Section 41(a)(2) of the
7 Internal Revenue Code is modified to read “34 percent.”

8 (6) For each taxable year beginning on or after January 1,
9 2015, and before January 1, 2016, both of the following shall
10 apply:

11 (A) The reference to “20 percent” in Section 41(a)(1) of the
12 Internal Revenue Code is modified to read “30 percent.”

13 (B) The reference to “20 percent” in Section 41(a)(2) of the
14 Internal Revenue Code is modified to read “39 percent.”

15 (7) For each taxable year beginning on or after January 1,
16 2016, and before January 1, 2017, both of the following shall
17 apply:

18 (A) The reference to “20 percent” in Section 41(a)(1) of the
19 Internal Revenue Code is modified to read “35 percent.”

20 (B) The reference to “20 percent” in Section 41(a)(2) of the
21 Internal Revenue Code is modified to read “44 percent.”

22 (8) For each taxable year beginning on or after January 1,
23 2017, both of the following shall apply:

24 (A) The reference to “20 percent” in Section 41(a)(1) of the
25 Internal Revenue Code is modified to read “40 percent.”

26 (B) The reference to “20 percent” in Section 41(a)(2) of the
27 Internal Revenue Code is modified to read “49 percent.”

28 (c) (1) With respect to any expense paid or incurred after the
29 operative date of Section 6378, Section 41(b)(1) of the Internal
30 Revenue Code is modified to exclude from the definition of
31 “qualified research expense” any amount paid or incurred for
32 tangible personal property that is eligible for the exemption from
33 sales or use tax provided by Section 6378.

34 (2) “Qualified research” and “basic research” shall include only
35 research conducted in California.

36 (d) The provisions of Section 41(e)(7)(A) of the Internal
37 Revenue Code, shall be modified so that “basic research,” for
38 purposes of this section, includes any basic or applied research
39 including scientific inquiry or original investigation for the
40 advancement of scientific or engineering knowledge or the

1 improved effectiveness of commercial products, except that the
2 term does not include any of the following:

- 3 (1) Basic research conducted outside California.
- 4 (2) Basic research in the social sciences, arts, or humanities.
- 5 (3) Basic research for the purpose of improving a commercial
6 product if the improvements relate to style, taste, cosmetic, or
7 seasonal design factors.
- 8 (4) Any expenditure paid or incurred for the purpose of
9 ascertaining the existence, location, extent, or quality of any deposit
10 of ore or other mineral (including oil and gas).

11 (e) (1) In the case of a taxpayer engaged in any
12 biopharmaceutical research activities that are described in codes
13 2833 to 2836, inclusive, or any research activities that are described
14 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
15 Industrial Classification (SIC) Manual published by the United
16 States Office of Management and Budget, 1987 edition, or any
17 other biotechnology research and development activities, the
18 provisions of Section 41(e)(6) of the Internal Revenue Code shall
19 be modified to include both of the following:

20 (A) A qualified organization as described in Section
21 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
22 institution of higher education as described in Section 3304(f) of
23 the Internal Revenue Code.

24 (B) A charitable research hospital owned by an organization
25 that is described in Section 501(c)(3) of the Internal Revenue Code,
26 is exempt from taxation under Section 501(a) of the Internal
27 Revenue Code, is not a private foundation, is designated a
28 “specialized laboratory cancer center,” and has received Clinical
29 Cancer Research Center status from the National Cancer Institute.

30 (2) For purposes of this subdivision:

31 (A) “Biopharmaceutical research activities” means those
32 activities that use organisms or materials derived from organisms,
33 and their cellular, subcellular, or molecular components, in order
34 to provide pharmaceutical products for human or animal
35 therapeutics and diagnostics. Biopharmaceutical activities make
36 use of living organisms to make commercial products, as opposed
37 to pharmaceutical activities that make use of chemical compounds
38 to produce commercial products.

39 (B) “Other biotechnology research and development activities”
40 means research and development activities consisting of the

1 application of recombinant DNA technology to produce
2 commercial products, as well as research and development
3 activities regarding pharmaceutical delivery systems designed to
4 provide a measure of control over the rate, duration, and site of
5 pharmaceutical delivery.

6 (f) In the case where the credit allowed by this section exceeds
7 the “tax,” the excess may be carried over to reduce the “tax” in
8 the following year, and succeeding years if necessary, until the
9 credit has been exhausted.

10 (g) For each taxable year beginning on or after January 1, 1998,
11 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
12 Internal Revenue Code, relating to contract research expenses, is
13 modified to read “this part or Part 10 (commencing with Section
14 17001).”

15 (h) (1) For each taxable year beginning on or after January 1,
16 2000:

17 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
18 the Internal Revenue Code is modified to read “one and forty-nine
19 hundredths of one percent.”

20 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
21 the Internal Revenue Code is modified to read “one and
22 ninety-eight hundredths of one percent.”

23 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
24 the Internal Revenue Code is modified to read “two and forty-eight
25 hundredths of one percent.”

26 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
27 election under Section 41(c)(4)(A) of the Internal Revenue Code
28 may be made for any taxable year of the taxpayer beginning on or
29 after January 1, 1998. That election shall apply to the taxable year
30 for which made and all succeeding taxable years unless revoked
31 with the consent of the Franchise Tax Board.

32 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
33 gross receipts, is modified to take into account only those gross
34 receipts from the sale of property held primarily for sale to
35 customers in the ordinary course of the taxpayer’s trade or business
36 that is delivered or shipped to a purchaser within this state,
37 regardless of f.o.b. point or any other condition of the sale.

38 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
39 election of the alternative simplified credit, shall not apply.

1 (i) Section 41(h) of the Internal Revenue Code, relating to
2 termination, shall not apply.

3 (j) Section 41(g) of the Internal Revenue Code, relating to
4 special rule for passthrough of credit, is modified by each of the
5 following:

6 (1) The last sentence shall not apply.

7 (2) If the amount determined under Section 41(a) of the Internal
8 Revenue Code for any taxable year exceeds the limitation of
9 Section 41(g) of the Internal Revenue Code, that amount may be
10 carried over to other taxable years under the rules of subdivision
11 (f), except that the limitation of Section 41(g) of the Internal
12 Revenue Code shall be taken into account in each subsequent
13 taxable year.

14 (k) Section 41(a)(3) of the Internal Revenue Code shall not
15 apply.

16 (l) Section 41(b)(3)(D) of the Internal Revenue Code, relating
17 to amounts paid to eligible small businesses, universities, and
18 federal laboratories, shall not apply.

19 (m) Section 41(f)(6) of the Internal Revenue Code, relating to
20 energy research consortium, shall not apply.

21 (n) *For taxable years commencing on and after January 1, 2013,*
22 *a taxpayer utilizing a credit pursuant to this section shall report*
23 *to the Franchise Tax Board, in a separate line item, the following*
24 *information:*

25 (1) *Total research and development expenditures made in the*
26 *tax year subject to the credit and the total research and*
27 *development expenditures not subject to the credit.*

28 (2) *For the total research and development expenditures subject*
29 *to the credit, a breakdown of the total amount of the credit*
30 *attributable to each of the following:*

31 (A) *Gross wages.*

32 (B) *Capital expenditures.*

33 (C) *Outside consultants and services.*

34 SEC. 9. Section 23687 is added to the Revenue and Taxation
35 Code, to read:

36 23687. (a) For each taxable year beginning on or after January
37 1, 2013, there shall be allowed to a qualified taxpayer as a credit
38 against the "tax," as defined in Section 23036, an amount equal
39 to 40 percent of the amount of a qualified contract price that is
40 paid to the qualified taxpayer in that taxable year.

1 (b) For purposes of this section, the following terms have the
2 following meanings:

3 (1) “Qualified contract” means a contract between a business
4 entity and a postsecondary educational institution for the business
5 entity to provide curriculum or research leading to job opportunities
6 in the private sector, or consultation services associated with the
7 establishment of curriculum or research leading to job opportunities
8 in the private sector, where the business entity and the
9 postsecondary educational institution agree that there is a
10 substantial potential for the future employment of students as a
11 result of the contract.

12 (2) “Qualified taxpayer” means a business entity that enters into
13 a contract or memorandum of understanding with a postsecondary
14 educational institution to provide curriculum or research leading
15 to job opportunities in the private sector, or consultation services
16 associated with the establishment of curriculum or research leading
17 to job opportunities in the private sector.

18 (c) In the case where the credit allowed by this section exceeds
19 the “tax,” the excess may be carried over to reduce the “tax” in
20 the following taxable year, and succeeding taxable years if
21 necessary, until the credit is exhausted.

22 (d) (1) The Franchise Tax Board may prescribe rules,
23 guidelines, or procedures necessary or appropriate to carry out the
24 purposes of this section.

25 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
26 Division 3 of Title 2 of the Government Code does not apply to
27 any standard, criterion, procedure, determination, rule, notice, or
28 guideline established or issued by the Franchise Tax Board
29 pursuant to this section.

30 SEC. 10. The provisions of this act are severable. If any
31 provision of this act or its application is held invalid, that invalidity
32 shall not affect other provisions or applications that can be given
33 effect without the invalid provision or application.

34 SEC. 11. Notwithstanding Section 2230 of the Revenue and
35 Taxation Code, no appropriation is made by this act and the state
36 shall not reimburse any local agency for any sales and use tax
37 revenues lost by it under this act.