Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 1027 (Burke) – As Amended March 20, 2019

SUBJECT: Income taxes: California Competes tax credit: private equity share agreement

POLICY FRAME: California's long-term economic growth is dependent on investment in innovation-based industries. Historically, this has been an area in which California has enjoyed a comparative advantage, not only relative to other states, but to other regions of the world. In the last several decades, however, other states, such as Massachusetts, and other countries in the world, such as Singapore, have begun to implement more targeted economic development initiatives to attract innovation-based industries.

These changes are a challenge to California's economic dominance. Over the past several decades, significant changes have occurred in the way new technologies are developed and commercialized. Traditional regional clusters are giving way to more globally based "knowledge networks" formed and enabled by technology rather than geography.

To address these challenges, AB 1027 proposes a new use for a portion of the credits currently being allocated under the California Competes Tax Credit. Under the provisions of the bill, a technology startup could receive a tax credit in exchange for an equity position in their company. California does not currently allow any state agency, excluding the public pension funds, from making equity investments.

As such, the bill offers the state a unique approach to supporting innovation-based businesses.
The policy committee analysis includes information on the California Competes Tax Credit, a description of the significant underutilization of the replacement business incentives for the elimination of the California Enterprise Zone Program, and an explanation of how equity investments work. Given the scale of the proposed legislation, suggested amendments are included in Comment 10 that would limit the scope of the bill in order to provide the author additional time to develop the equity provisions. Due to the legislative calendar, these amendments, if accepted, may need to be made in the next policy committee, the Assembly Committee on Revenue and Taxation.

SUMMARY: AB 1027 authorizes a portion of the California Competes Tax Credit be used to make equity investments in certain qualified businesses. Specifically, **this bill**:

1) Makes legislative findings and declarations which state:

    a) No part of the state's ownership interest in a taxpayer's business shall be construed as a lending of credit to the company that receives an allocation under this subdivision.

    b) A lender, investor, entity, individual, or any other party may not rely on the state's credit when dealing with a taxpayer that receives an allocation under this subdivision because none has been provided.

2) Authorizes, for the allocations made in fiscal year 2020-21 through and including the 2022-23 fiscal year, a taxpayer to choose to enter into an equity share agreement with Governor's Office of Business and Economic Development (GO-Biz) in exchange for a credit allocation.

3) Specifies that the amount of credit allocated under this alternative process to be based on the following factors:

    a) The number of jobs the taxpayer will create or retain in this state.

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

    c) The amount of investment in this state by the taxpayer.

    d) The extent of unemployment or poverty in the area according to the U.S. Census in which the taxpayer's project or business is proposed or located.

    e) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities.

    f) The incentives available to the taxpayer in other states.

    g) The overall economic impact in this state of the taxpayer's project or business.

    h) The strategic importance of the taxpayer's project or business to the state, region, or locality.

    i) The opportunity for future growth and expansion in this state by the taxpayer's business.

    j) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

    k) In the case where a taxpayer is applying during an economic downturn:

        i) The anticipated reduction, if any, in the number of jobs, projects, and investments that will likely occur without a credit.

        ii) The overall economic impact in this state of a reduction in the taxpayer's project or business that could be lost without a credit.

4) Specifies that the equity agreement allows the state to own a percentage of the taxpayer's business as a limited partner. In addition, the bill specifies the following:

    a) As a limited partner, the state is required to not be liable for losses, damages, or civil or criminal claims beyond the state's equity interest in the taxpayer's business.

    b) As a limited partner, the state may not manage or influence any part of the taxpayer's business. Any income, profits, and losses generated by the partnership shall flow through to the partners, including the state as a limited partner.

    c) The state's credit, as specified in Section 17 of Article XVI of the California Constitution, is not to be provided to a taxpayer that receives an allocation under this subdivision, as specified.

    d) If a court finds, in a final determination, that the state's ownership interest in a taxpayer's business is prohibited by the California Constitution, any unused carryover of the credit shall be canceled and any previously claimed credit that reduced net tax shall be recaptured by increasing the tax imposed, as specified, for the taxable year in which the ownership interest is terminated.

5) Requires the taxpayer to provide GO-Biz with two independent valuations of the taxpayer's business, along with a balance sheet, income statement, and cash flow statement.

6) Requires the private equity share agreement to include all of the following:

a) A provision providing that the state is not liable beyond the value of its ownership interest in the legal entity.

b) A provision stating the state's status as a limited partner or shareholder of the taxpayer's business and ensuring the state's inability to manage or influence any part of the taxpayer's business.

c) A provision stating that the state is not loaning, in any manner, its credit to the taxpayer.

d) The equity interest of the state in the taxpayer's business and the amount of tax credits allocated in exchange for the equity interest.

e) The minimum duration of time that the state must hold its ownership interest in the legal entity, including what conditions would allow the state to discharge that interest before the minimum duration period.

7) Authorizes the taxpayer to utilize, to the extent possible, the entire allocated tax credit once an equity agreement has been approved by the California Competes Tax Credit Committee. Related provisions are as follows:

a) A taxpayer, except as provided in (b), may carryforward any portion of the credit that exceeds amount of tax due in the initial year the credit is applied to the following year, and every year thereafter, until the credit is exhausted.

b) A taxpayer that is a qualified technology startup may, subject to appropriation by the Legislature, receive cash in the value of the excess balance of the credit, if the amount of the allowable credit exceeds the tax liability of the taxpayer for the taxable year, as specified.

8) Defines "economic downturn" to mean a recession where the gross domestic product has been negative for the immediate to prior two quarters.

9) Defines a "technology startup" to mean a company that is less than five years old, with less than five million dollars ($5,000,000) in gross revenue, whose purpose is to bring new technology products or services to market or that delivers existing technology or services in new ways.

10) Expands the criteria GO-Biz is required to consider when entering into a tax credit agreement with taxpayer from only considering the extent to which the credit will influence the taxpayer's ability, willingness, or both, to create jobs to also include retaining jobs, as specified.

EXISTING LAW establishes the California Competes Tax Credit for the purpose of awarding individually negotiated tax credits to businesses that operate in California. The amount of the award is based on a number of conditions, including, but not limited to, the number of jobs being created, the compensation-level of employees, the amount of investments made, and the location of the project or business. Priority is provided to projects and businesses located in high unemployment and high poverty areas.

FISCAL EFFECT: Unknown

COMMENTS:

1) **The Nature of Innovation**: There are many qualities that distinguish economies that are supportive of business and manufacturing innovations. Some examples include having high numbers of scientists and engineers, low barriers to entry for new firms, flexible business organization structures,

easy access to government and corporate R&D, logistical networks that link domestic and foreign markets, and high numbers of new public offerings. In general, firms within these economies are able to readily integrate and adapt new and evolving ideas into products and services.

In the global race for innovation, California enjoys many advantages including:

- Leadership in diverse technology and knowledge-based industries;
- Strong research institutions that provide unrivaled human capital and valuable intellectual property;
- An entrepreneurial culture aided by a deep pool of immigrant entrepreneurs; and
- Access to early-stage risk capital to bring innovations to market.

As an example, California still ranks 1st among 50 states for patents where 45,175 patents were filed in 2016 (most recent data). The 2nd highest number of patents were issued to innovators in Texas who received 9,934 patents, followed by New York where 8,464 patents were filed. It is not unusual for more than a quarter of all patents filed in the U.S. to be from individuals in California.

The filing of patents, however, is not sufficient, especially as other states and nations adopt new innovation-focused policies and programs. One report from the Information Technology and Innovation Foundation found that as early as a decade ago, California's top innovation position was being challenged. Between 2007 and 2010, California fell from 4th in the country to 9th in terms of economic dynamism, ranked 45th in its ability to attract skilled legal immigrants, and ranked 22nd in its ability to attract skilled U.S. workers.

2) **Equity Investments**: Equity investments are very different from debt, which is commonly structured as a loan. In a loan arrangement, a lender provides a certain amount of money to a business and enters into an agreement regarding the terms of the repayment, including a set amount of interest which will be paid to the lender putting up the money. Borrowers often have to pledge collateral for some or all of the value of the loan, which will be forfeited in the circumstance that the loan is not repaid under the terms of the agreement.

In an equity investment, the business agrees to provide the investor with shares in their company. The amount of stock and level of management control the investor can exert are defined in the equity agreement. The value of the shares is based on estimates, not by the public market as in the case of publically held stock. The equity agreement also usually includes provisions for how long the investor agrees to hold the shares. Unless otherwise specified in the equity agreement, the investor cannot simply sell its shares to get its money back. Because of these limitations, equity investments are often described as patient capital. For business startups, equity investments can be foundational to the business' ability to operate while the staff bring a product to market and/or expand to new markets. If the business is successful, equity investments can also be very lucrative to the investor.

Private equity investments also have specific risks to the investor. Being a limited partner, as proposed in AB 1027, may limit financial risk in the case of bankruptcy or lawsuits, but it also increases operational risks, such as those associated with company mismanagement or reputational risk. Other risks inherent to equity investments include liquidity and valuation risks. Currently, the bill has a basic structure for entering into equity investments, but not necessarily sufficient guidance to GO-Biz as how to choose between technology projects in order to avoid or mitigate against the unique risk factors of an equity investment.

AB 1027 does, however, appropriately leverage the very strong alignment of interest between the state and small technology startups. Looking for new financial tools for supporting these small size firms is a solid economic goal.

3) **The Replacement Business Incentive Package**: In 2013, after several years of intense debate, the California Enterprise Zone Program was eliminated and replaced with a $780 million Governor's Economic Development Initiative (GEDI), which is comprised of the Manufacturing and Research and Development Sales and Use Tax Exemption, New Employment Tax Credit, and the California Competes Tax Credit [*AB 93 (Budget), Chapter 69, Statutes of 2013 and SB 90 (Galgiani), Chapter 70, Statutes of 2013*].

   The intent of GEDI was to attract and retain high-value employers while at the same time ensuring accountability for the state's job creation efforts and the effective use of taxpayer dollars.

Initial Executive Branch Estimate:	$485 million Manufacturing Exemption
	$150 million New Employment Tax Credit
	+ $200 million California Competes
	$835 million

   The New Employment Credit has performed less than expected. Below is information on utilization of these incentives.

   - ***Manufacturing and Research and Development Sales and Use Tax Exemption***: $54.3 million in 2014 (partial year); $154.7 million in 2015; and $164.5 in 2016.
   - ***New Employment Credit***: $340,822 in 2014; $693,323 in 2015; $1.8 million in 2016; and $2.4 million in 2017.
   - ***California Competes Tax Credit***: $0 in 2014; $13.1 million in 2015; $23.7 million in 2016; and $23.8 million in 2017.

   In 2017-18 all three GEDI incentives were extended, including the severally underutilized New Employment Credit.

4) **California Competes Tax Credit**: The California Competes Tax Credit is a state-wide program available to both large and small businesses, with credits awarded based on the number of jobs created/retained and capital investments made.

   The tax credit program is administered through the Governor's Office of Business and Economic Development (GO-Biz) with a five-member committee specifically approving credit awards. The California Tax Credit Committee is comprised of the Director of GO-Biz (chair), the State Treasurer, the Director of the Department of Finance, and one appointee each by the Speaker of the Assembly and Senate Committee on Rules. As of November 2018, the committee has approved 974 credit awards for a total of $828.8 million in tax credits, which are anticipated to result in 95,139 jobs and $17.8 billion in business investments in California.

   Key statutory program requirements for the California Competes Tax Credit include:

   a) **Allocation Years**: 2013-14 through and including 2022-2023.

b) **Applicable Tax Years**: After January 1, 2014, and before January 1, 2025.

c) **Total Tax Credit Awards**: $30 million (2013-14); $150 million (2014-15); $200 million (2015-16 through 2017-18); and $180 million (2018-19 through 2022-23).

d) **Value of the Individual Credit**: Each credit award is individually negotiated with GO-Biz staff and approved by the California Competes Tax Credit Committee. Awards are based on the committed dollars of investment and net new jobs, as compared to the dollar amount of tax credits requested. No taxpayer may receive more than 20% of the total annual allocation.

e) **Program Priority**: Applications from taxpayers whose project or business is located or proposed to be located in an area of high unemployment or high poverty are required to be treated as a priority. *This is the only statutory priority under the California Competes Tax Credit.* High poverty areas are those that are at or above the federal poverty rate at the time of the tax credit award. High unemployment areas are those that are at or above the state unemployment rate at the time of the tax credit award.

f) **Carryforward**: Six years from the initial application of the credit, as specified in the written agreement.

g) **Competitive Award Criteria**: The California Competes Tax Credit is a competitively awarded credit based on the following criteria:

   i) The number of anticipated California jobs created or retained;

   ii) The compensation paid or proposed to be paid to its employees, including wages and fringe benefits;

   iii) The amount of investment in this state by the taxpayer;

   iv) The extent of unemployment or poverty in the area in which the taxpayer's project or business is proposed or located;

   v) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities;

   vi) The incentives available to the taxpayer in other states;

   vii) The duration of the proposed project and the duration the taxpayer commits to remain in this state;

   viii) The overall economic impact in this state of the taxpayer's project or business;

   ix) The strategic importance of the taxpayer's project or business to the state, region, or locality;

   x) The opportunity for future growth and expansion in this state by the taxpayer's business; and

   xi) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

h) **Additional Considerations**: Beginning with the 2018-19 credit allocation, GO-Biz is required to also consider, prior to entering into the agreement, the extent to which the credit will influence the taxpayer's ability, willingness, or both, to create jobs in this state that might not otherwise be created in the state by the taxpayer or any other taxpayer. GO-Biz may also consider other factors, including, but not limited to, the following:

i) The financial solvency of the taxpayer and the taxpayer's ability to finance its proposed expansion or retain its existing investments in the state.

ii) The taxpayer's current and prior compliance with federal and state laws.

iii) Current and prior litigation involving the taxpayer.

iv) The reasonableness of the fee arrangement between the taxpayer and any third party providing any services related to the credit allowed pursuant to this section.

v) Any other factors GO-Biz deems necessary to ensure the program is a model of accountability and transparency, as specified.

i) **Written Agreements**: Each award is documented through a written agreement between GO-Biz and the taxpayer. Enforcement of the individual commitment is the responsibility of the Franchise Tax Board (FTB), which is directed to review the books and records of every non-small business taxpayer who receives a credit. FTB has the authority to review the books and records of small business tax payers, but it is not mandatory.

j) **General Fund Protection**: Although statute generally sets a specific schedule for awarding the credits, GO-Biz works in partnership with the state's tax entities to ensure the financial impact on the General Fund does not exceed $750 million in the current and next fiscal year, including all incentives awarded through the California Competes Tax Credit, the Sales and Use Tax Exclusion, and the New Hire Credit.

The Franchise Tax Board is required to annually provide a report to the Joint Legislative Budget Committee that identifies the actual total dollar amount of the credits claimed under the California Competes Tax Credit.

5) **Number of Businesses Served**: Below are charts displaying information on the tax credit awards, including numbers of small businesses and non-small businesses who received credits, those that applied for credits, the mean average credit award, and the median average credit award.

As of November 2018	Number of Awardees	Number of Jobs Committed	Amount of Investment Committed	Credit Awarded
Non-Small Businesses	603	83,211	$15,896,253,172	$681,570,661
Small Businesses	371	11,928	$1,998,386,655	$147,240,814
Total Businesses	974	95,139	$17,894,639,827	$828,811,475

Fiscal Year	Total Credit Available	Total Credit Requested	Number of Non-Small Business Applications	Number of Small Business Applications	Number of Non-Small Businesses Awarded	Number of Small Businesses Awarded
2013-2014	$30,000,000	$561,454,983	262	134	18	11
2014-2015	$151,100,000	$939,315,673	592	214	135	77
2015-2016	$200,900,000	$808,851,620	568	328	171	88
2016-2017	$243,300,000	$1,106,097,690	621	324	158	117
2017-2018	$230,400,000	$958,078,742	616	240	111	71
2018-2019	$219,800,000	$278,038,846*	86*	98*	10*	7*

*Data is from first application period and not a total year of awards

As of November 2018	Average Cost Per Job	Average Amount of Investment Committed Per Credit Awarded	Mean Average Credit Award	Median Average Credit Award
Non-Small Businesses	$8,191	$23	$1,130,300	$450,000
Small Businesses	$12,344	$14	$396,876	$125,000
Total Businesses	$8,712	$22	$850,936	$250,000

6) **Credit Utilization**: Under the California Competes Tax Credit Agreement, the taxpayer agrees to annually report to GO-Biz as to whether they have met their employment and/or investment milestones. If the business has met or exceeded its commitment, the taxpayer is allowed to claim the credit. If tax liability is less than the value of the credit, the taxpayer is allowed to carryforward the value of the unused portion of the credit.

In cases where the taxpayer is not able to meet the milestone, the taxpayer can meet the employment and/or investment commitment in a subsequent year. When significant issues occur, such as bankruptcies, the taxpayer and GO-Biz may mutually agree to end the agreement, and those credits would then be considered "recaptured" and be available for reallocation.

Recaptured credits are not affected by the annual allocation limit in statute but are impacted by the $750 million cap on applied credits. GO-Biz reports that as of November 2018, $22.2 million in credits have been recaptured.

As noted previously, utilization of the California Competes Tax Credit is lower than expected. The chart below shows data from the Franchise Tax Board and GO-Biz on utilization of the tax credit and recaptured credits.

California Competes Utilization, 2014 through 2017				
Tax Year	**Net Amount of Credit Eligible**	**Utilization by Dollar**	**Utilization by Number of Returns**	**Recaptured Credits by Dollar**
2014	$10.3 million	$4.3 million	87	$1.5 million
2015	$37.9 million	$13.1 million	306	$3.7 million
2016	$58.3 million	$23.7 million	498	$4.8 million
2017	$108.9 million*	$23.8 million*	732*	$5.8 million
2018	Not Available	Not Available	Not Available	$6.7 million
*Preliminary number, not all fiscal-year filers				
Source: Franchise Tax Board and GO-Biz				

7) **California Constitution**: AB 1027 breaks new ground relative to the state taking equity positions within private companies. While public pension funds, such as the California Public Employees Retirement System (CalPERS), actively make a range of equity type investments, pension funds are specifically called out as being excluded from the provisions in the state constitution that prohibits the state from loaning its credit to or holding an interest in the stock of any company, association, or corporation, excluding capital stock of a mutual water company, as specified in Section 17 of Article XVI of the California Constitution.

In advancing public finance and policy, it is not unusual for legal questions to arise. In this case, the author has explored this issue with the Office of the Legislative Counsel and has included a number of provisions in the bill to clarify and delineate what is being proposed in AB 1027 from that which would be prohibited under the state constitution. The provisions include, but are not limited to:

- Legislative findings and declarations that no part of the state's ownership interest in a taxpayer's business shall be construed as a lending of credit to the company that receives an allocation under this subdivision.
- Legislative findings and declarations that a lender, investor, entity, individual, or any other party may not rely on the state's credit when dealing with a taxpayer that receives an allocation under this subdivision because none has been provided.
- Specifying that while the equity agreement provides the state with a percentage of the taxpayer's business, the state may only participate as a limited partner.
- Specifying that the state is not liable for losses, damages, or civil or criminal claims beyond the state's limited equity interest in the taxpayer's business.

In addition, AB 1027 provides that if a court finds, in a final determination, that the state's ownership interest in a taxpayer's business is prohibited by the California Constitution, any unused carryover of the credit is to be canceled and any previously claimed credit that reduced the taxpayer's net tax is to be recaptured.

8) **Small Business Mandate**: Governor Brown's proposed budget for fiscal year 2018-19 included a legislative proposal to extend the California Competes Tax Credit for an additional five years by extending the allocation authority from June 30, 2018, to June 30, 2023.

In addition to extending tax credit allocation authority, the Governor proposed reducing the overall value of the annual tax credit awards from $200 million per year to $180 million per year and removing the mandate to annually set aside 25% of allowable awards to taxpayers who meet the requirements of being a small business.

Prior to the 2018-19 California Competes allocation round, at least 25% of the tax credits are required to be reserved for small businesses on an annual basis. The program used $2 million in revenues as the maximum gross receipts (less returns and allowances). Since inception to the conclusion of the small business mandate, GO-Biz has awarded 19.5% of the tax credits to small businesses. Relative to the number of taxpayers receiving credits, 38.7% were small businesses.

AB 1027 proposes to reinstate a small business option for high-growth technology start-ups.

9) **LAO Report**: The Legislative Analyst' Office issued a report on the California Competes Tax Credit in October 2017 and later issued a related "Budget and Policy Post." Among other findings, the LAO report and web-posting:

- Concluded that the executive branch has made a good faith effort to implement California Competes;
- Found that about 35% of the total number of awards (about 15% of the dollar value) were awarded to businesses in the "non-tradable" sector of the state's economy;
- Found that even though GO-Biz had undertaken extensive outreach, the 25% small business set-aside was being significantly underutilized;
- Expressed concern that programs like California Competes have inherent and unavoidable risks of "providing windfall benefits or awards to businesses in the non-tradable sector of the economy" and can result in "significant tax burden disparities among similarly situated taxpayers" by

providing a "substantial benefit to a relatively small number of the hundreds of thousands of businesses here."

Overall, the LAO recommends rejecting the Governor's proposed extension of the California Competes Tax Credit. If extended, the LAO recommends:

- Clarifying the intent of the tax credit especially as its purpose relates to attracting and retaining employers;
- Narrowly focusing the program on tradeable businesses; and
- Eliminating the small business set-aside.

The only recommendation adopted was the elimination of the small business set aside.

10) **Proposed Amendments**: The Committee may wish to consider recommending that the author scale the bill back in order to provide more time to develop the new competitive equity investment provisions. More specifically, the bill could be amended to allow an applicant for a tax credit award to include proposing an equity position in their company.

With the support of the Committee, the author could continue to work on the equity investment provisions.

11) **Related Legislation**: Below is a list of bills from the current and prior sessions.

a) ***AB 93 (Assembly Committee on Budget) California Competes Tax Credit and State Sales and Use Tax Exemption***: This bill institutes three new tax programs: a Sales and Use Tax exemption for manufacturing and bio-tech equipment and similar purchases; a California Competes tax credit for attracting and retaining major employers; and a hiring credit under the Personal Income Tax and Corporation Tax for employment in specified geographic areas. Additionally, the bill results in the phasing-out and ending of certain tax provisions related to Enterprise Zones and similar tax incentive areas, and ending the current Small Business New Jobs Credit tax incentive program. The bill also provides for allocating the California Competes tax credit through the Governor's Office of Business and Economic Development to assist in retaining existing and attracting new business activity in the state. Status: Signed by the Governor, Chapter 69, Statutes of 2013.

b) ***AB 106 (Assembly Committee on Budget) California Competes: Technical Changes 2 of 3***: This bill makes technical clarification to the Enterprise Zone Program that is set to expire on December 31, 2013, according to SB 90 and AB 93. Status: Signed by the Governor, Chapter 355, Statutes of 2013.

c) ***AB 162 (Cervantes and Quirk-Silva) California Competes Tax Credit – Small Business***: This bill, as it passed the Assembly Jobs Committee, would have expanded the definition of a small business under the California Competes Tax Credit Program from being a business with less than $3 million in gross revenues in the preceding two years to being a business with no more than 50 full-time employees in the current and preceding two years. The bill was amended in the Senate to relate to a different subject matter. Status: Died on Senate inactive file, 2018.

d) ***AB 437 (Atkins) Small Business Research and Development Grant Program***: This bill would have allowed a qualified small business to convert into cash grants up to 10% of the value of research and development credits carried over from the 2015 and 2016 taxable years to the 2017 year, or 15% for credits generated in the 2017 to 2022 taxable years. The bill would have provided for the acceleration of the taxpayer's ability to monetize the credits. Status: Vetoed by the Governor, 2015. The veto message reads, "*I am returning the following nine bills without my signature: Assembly Bill 35; Assembly Bill 88; Assembly Bill 99; Assembly Bill 428; Assembly Bill 437; Assembly Bill 515; Assembly Bill 931; Senate Bill 251; and Senate Bill 377. Each of these bills creates a new tax credit or expands an existing tax credit. Despite strong revenue performance over the past few years, the state's budget has remained precariously balanced due to unexpected costs and the provision of new services. Now, without the extension of the managed care organization tax that I called for in special session, next year's budget faces the prospect of over $1 billion in cuts. Given these financial uncertainties, I cannot support providing additional tax credits that will make balancing the state's budget even more difficult. Tax credits, like new spending on programs, need to be considered comprehensively as part of the budget deliberations.*"

e) ***AB 999 (Burke) Small Business Tax Credit***: This bill authorizes the allocation of $15 million of tax credits to qualifying small businesses in a qualifying high-technology field based on 25% of qualifying investments. Status: Pending in the Assembly Committee on Jobs, Economic Development, and the Economy.

f) ***AB 1399 (Medina and V. Manuel Pérez) New Markets Tax Credit***: This bill would have established the California New Market Tax Credit to stimulate investment in small businesses located in low-income communities, mirroring the federal New Market Tax Credit. Status: Vetoed by the Governor, 2014. The veto message reads, "*This bill creates a new markets tax credit that will cost --over time-- $200 million. I certainly endorse programs that result in private investments to help low income areas, but a bill to spend this much should be considered with other priorities during the annual budget.*"

g) ***AB 2900 (JEDE) Small Business Centers Reporting***: This bill expands the mandatory annual reporting of data on the California Competes Tax Credit to include the city and county of the business location, and whether the business is located in areas of high unemployment or high poverty, as specified. Status: Signed by the Governor, Chapter 582, Statutes of 2016.

h) ***AB 1715 (JEDE) Small Business New Market Tax Credit***: This bill authorizes the allocation of $40 million in tax credits to financial intermediaries for the purpose of stimulating investments in small businesses located in low-income communities in California. The bill mirrors the federal New Market Tax Credit. Status: Pending in the Assembly Committee on Revenue and Taxation.

i) ***AB 1716 (JEDE) Manufacturing and Innovation Tax Credit***: This bill extends the State Sales and Use Tax Exemption and the California Competes Tax Credit for five years. Status: Pending in the Assembly Committee on Jobs, Economic Development, and the Economy.

j) ***SB 90 (Galgiani) California Competes: Technical Changes 1 of 3***: This bill makes various technical changes related to the California Competes Tax Credit Program in AB 93. Status: Signed by the Governor, Chapter 70, Statutes of 2013.

k) ***SB 855 (Senate Budget) Extension of California Competes***: This bill is the Revenue and Tax trailer bill and makes changes necessary to implement the 2018 Budget Act. Among other actions, the bill:

   i) Extends, until January 1, 2026, the allowance of the current credit for hiring qualified full-time employees within a specified census tract or economic development area. The credit is an amount equal to 35% of qualified wages, paid to qualified employees, multiplied by an applicable percentage for the taxable year.

ii) Extends the California Competes Tax Credit until January 1, 2030, and provides for the allocation of credit amounts of $180 million for each fiscal year from 2018-19 to 2022-23. In addition, the bill:

(1) Requires that, beginning with the 2018-19 fiscal year, when determining whether to enter a specific written agreement related to the California Competes Tax Credit, the Governor's Office of Business and Economic Development (GO-Biz) consider the extent to which the credit will influence the taxpayer's ability, willingness, or both, to create jobs in California. Additionally, the bill requires GO-Biz to consider the amount of training opportunities offered for employees by the taxpayer.

(2) Requires that, on or before October 1, 2019, GO-Biz provide to the Legislative Analyst's Office (LAO) a report on credits allocated for the 2018-19 fiscal year, including a detailed description of the methodology used to evaluate applications and allocate credits. Additionally, the bill requires the LAO to report to the Legislature, as specified, regarding an evaluation of the GO-Biz report.

(3) Requires GO-Biz to provide a member of the California Competes Tax Credit Committee, or their designated representative, upon request of that member, with any information necessary to fulfill their duties related to the tax credit.

Status: Signed by the Governor, Chapter 52, Statutes of 2018.

12) **Double Referral**: The Assembly Committee on Rules has referred this measure to the Assembly Committee on Jobs, Economic Development, and the Economy and to the Assembly Committee on Revenue and Taxation. Should this measure pass the committee, it will be referred to R&T for further policy consideration.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

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