

3 Workbook on California Competes Tax Credit

Statutory References:

Revenue and Taxation Code Sections 17059.2, 18410.2 and 23698

Program Purpose: To provide a tax credit to taxpayers who can commit to making capital investments and/or hire additional staff.

Program Narrative: The California Competes Tax Credit Program is a competitive tax credit that is designed for companies who are making new capital investments and hiring additional staff. To promote the California Competes Tax Credit Program, the Governor's Office of Business and Economic Development (GO-Biz) conducts outreach workshops statewide. During the course of the workshop, prospective applicants are able to learn about the application process, including how applications are analyzed and recommendations are developed for consideration by the California Competes Tax Credit Committee. Upon request, the California Competes Tax Credit unit can assist applicants in connecting with CalBIS and an array of other business development services.

Key Statutory Program Requirements:

- **Allocation Years:** 2013-14 through and including 2017-18.
- **Tax Years:** January 1, 2014, and before January 1, 2025.
- **Total Tax Credit Awards:** \$780 million for 5 years of credits - \$30 million (2013–14); \$150 million (2014–15); \$200 million (2015-16, 2016-17, 2017-18).
- **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, net new full-time jobs, and aggregate new employee salary, as compared to the dollar amount of tax credits requested. No taxpayer may receive more than 20% of the total annual allocation and 25% of the annual allocation is reserved for small businesses.
- **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.* Currently, high poverty areas are those that are at or above the state poverty rate at the time of the tax credit award. High unemployment areas are currently considered to be those areas that are at or above the state unemployment rate at the time of the tax credit award. GO-Biz is currently pursuing a regulatory change to strengthen the implementation of this program priority, including providing a priority in the first phase of the application review and narrowing the definitions of high poverty and high unemployment. Those proposed changes are discussed under "Regulatory Changes."
- **Carryforward:** A taxpayer may carryforward the credit for six taxable years after the taxable year in which they earned the credit.
- **Competitive Award Criteria:** The California Competes Tax Credit is a competitively awarded credit based on the following criteria:

- a. The number of anticipated California jobs created or retained;
 - b. The compensation paid or proposed to be paid 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 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 duration of the proposed project and the duration the taxpayer commits to remain in this state;
 - h. The overall economic impact in this state of the taxpayer's project or business;
 - i. The strategic importance of the taxpayer's project or business to the state, region, or locality;
 - j. The opportunity for future growth and expansion in this state by the taxpayer's business; and
 - k. The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.
- **Written Agreements:** Each award is documented through a written agreement between GO-Biz and the taxpayer. Links to copies of these written agreements can be found on the online version of the Tax Credit Allocation Committee meeting agenda. Enforcement of the individual commitments in the agreement 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 is not mandated to do so.

The written agreement is required to include:

- Terms and conditions, including the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period;
 - Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer; and
 - Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.
- **Small Business Mandate:** At least 25% of the tax credits are required to be reserved for small businesses on an annual basis. A small business is defined as having gross receipts (less returns and allowances) of greater than \$0 but less than \$2 million in the prior tax year. FTB is responsible for providing GO-Biz with the information as to whether a taxpayer qualifies as a "small business." Since inception, GO-Biz has awarded 22.0% of the tax credits to small businesses. Relative to the number of taxpayers receiving credits, 35.2% were small businesses.
 - **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 Employment 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.

Reporting Requirements in Statute: Yes. Existing law requires GO-Biz to post information on its Internet website relating to each tax credit award, including the taxpayers name, estimated amount of each taxpayer's investment, estimated number of jobs created or retained, the amount of the credit allocated to the taxpayer, and the amount of any recaptured credit.

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, applied for credits, average credit award, and median credit award.

California Competes Tax Credit Awards Summary				
As of June 2016	Number of Awardees	Number of Jobs Committed	Amount of Investment Committed	Credit Awarded
Non-Small Businesses	324	48,272	\$11,572,851,555	\$265,303,821
Small Businesses	176	7,684	\$1,418,697,168	\$74,831,194
Total Businesses	500	55,956	\$12,991,548,723	\$340,135,015

Data Source: GO-Biz 07/2016

California Competes Tax Credit Awards by Application Period						
Fiscal Year (FY)	Total Credits Available	Total Credit Requests	Number of Non-Small Business Applications	Number of Small Business Applications	Number of Non-Small Businesses Awarded	Number Small Businesses Awarded
FY 13-14: Application Period 1	\$30,000,000	\$561,454,983	262	134	18	11
FY 14-15: Application Period 1	\$45,000,000	\$329,333,538	228	58	31	25
FY 14-15: Application Period 2	\$75,000,000	\$289,800,949	177	76	66	27
FY 14-15: Application Period 3	\$30,000,000	\$320,181,186	187	80	38	25
FY 15-16: Application Period 1	\$75,000,000	\$268,876,560	205	136	59	30
FY 15-16: Application Period 2	\$75,000,000	\$300,244,159	193	105	68	35

FY 15-16: Application Period 3	\$86,222,254	\$239,730,901	170	87	44	23
Data Source: GO-Biz 07/2016						

California Competes Tax Credit Awards by Business Size		
As of June 2016	Average Credit Award	Median Credit Award
Non-Small Businesses	\$818,839	\$293,500
Small Businesses	\$425,177	\$100,000
All Businesses	\$680,270	\$200,000
Data Source: GO-Biz 07/2016		

Number of Out-of-State Businesses Served: Since inception of the program, GO-Biz has entered into agreements with approximately 167 businesses that were considering locating or expanding in states other than California. These businesses indicated in their California Competes Tax Credit applications that absent an award of the CCTC their growth may have occurred in another state.

Current Regulatory Activities: Yes. GO-Biz intends to file proposed amendments to the regulations for the California Competes Tax Credit Program with the Office of Administrative Law on July 26, 2016. The proposed amendments: Allow applications for the California Competes Tax Credit to automatically move into the Phase II review process if a required percentage of the business's net increase of full-time employees will work in an area of high unemployment or poverty; add a new question to the California Competes Tax Credit application relating to the applicant's hiring and/or recruiting practices that promote a diverse workforce, and clarify the definition of salary/wages.

Selected Program Highlights: Additional charts and graphs appear later in this workbook.

Workshop Locations: Below is a list of workshops. Each of the workshops is free to attend and, where possible, the workshops are held in partnership with local economic, business, and government stakeholders.

Locations of California Competes Tax Credit Workshops					
Date	City	County	Date	City	County
3/19/2014	Redding	Shasta	10/15/2014	Fontana	San
3/19/2014	Sacramento	Sacramento	10/16/2014	Palmdale	Los Angeles
3/20/2014	Fairfield	Solano	10/17/2014	Long Beach	Los Angeles
3/20/2014	Oakland	Alameda	1/16/2015	Chico	Butte
3/20/2014	Salinas	Monterey	1/16/2015	Sacramento	Sacramento
3/21/2014	Fresno	Fresno	1/20/2015	Fresno	Fresno
3/21/2014	Stockton	San Joaquin	1/21/2015	Los Angeles	Los Angeles
3/24/2014	Ventura	Ventura	1/22/2015	Moreno Valley	Riverside
3/25/2014	Los Angeles	Los Angeles	1/23/2015	Irvine	Orange
3/26/2014	Anaheim	Orange	1/23/2015	San Diego	San Diego
3/26/2014	Ontario	San Bernardino	2/23/2015	Eureka	Humboldt
3/27/2014	San Diego	San Diego	3/5/2015	National City	San Diego

3/28/2014	San Francisco	San Francisco
3/28/2014	San Mateo	San Mateo
4/8/2014	DVBE /	Sacramento
4/9/2014	CAL ED / Sacramento	Sacramento
9/30/2014	Eureka	Humboldt
10/6/2014	Sacramento	Sacramento
10/8/2014	Fresno	Fresno
10/8/2014	Stockton	San Joaquin
10/9/2014	San Jose	Santa Clara
10/9/2014	Visalia	Tulare
10/13/2014	San Diego	San Diego
10/14/2014	El Centro	Imperial
10/15/2014	Carson	Los Angeles
7/22/2015	Seaside	Monterey
7/22/2015	Santa Cruz	Santa Cruz
7/23/2015	Santa Paula	Ventura
7/24/2015	Atwater	Merced
7/24/2015	Murrieta	Riverside
7/27/2015	Vernon	Los Angeles
7/28/2015	Camarillo	Ventura
7/28/2015	Lancaster	Los Angeles
7/29/2015	Torrance	Los Angeles
7/29/2015	Redlands	San Bernardino
7/30/2015	Cathedral City	Riverside
7/30/2015	Rialto	San Bernardino
7/31/2015	Tustin	Orange
7/31/2015	San Diego	San Diego
8/4/2015	City of Industry	Los Angeles
8/6/2015	Salinas	Monterey
8/6/2015	Ceres	Stanislaus
8/7/2015	Bakersfield	Kern
10/13/2015	San Diego	San Diego
10/15/2015	Carlsbad	San Diego
12/1/2015	Santa Clarita	Los Angeles
12/2/2015	Rialto	San Bernardino
12/2/2015	Lakewood	Los Angeles
12/3/2015	Long Beach	Los Angeles
12/7/2015	Eureka	Humboldt

3/5/2015	Santa Ana	Orange
3/6/2015	Cupertino	Santa Clara
3/6/2015	Thousand Oaks	Ventura
3/6/2015	Ventura	Ventura
3/23/2015	Paramount	Los Angeles
6/11/2015	Stockton	San Joaquin
7/9/2015	Modesto	Stanislaus
7/14/2015	Sacramento	Sacramento
7/16/2015	Fresno	Fresno
7/16/2015	Visalia	
7/20/2015	Vacaville	Solano
7/20/2015	Santa Rosa	Sonoma
7/21/2015	Pittsburg	Contra Costa
3/10/2016	Modesto	Stanislaus
3/11/2016	Merced	Merced
7/12/2016	Modesto	Stanislaus
7/13/2016	Bakersfield	Kern
7/13/2016	Fresno	Fresno
7/14/2016	Sacramento	Sacramento
7/18/2016	Napa	Napa
7/20/2016	El Centro	
7/20/2016	San Francisco	San Francisco
7/20/2016	Oakland	Alameda
7/21/2016	Visalia	Tulare
7/21/2016	Desert Hot Springs	Riverside
7/21/2016	Merced	Merced
7/21/2016	San Bernardino	San Bernardino
7/25/2016	Yuba City	Sutter
7/25/2016	Corona	Riverside
7/26/2016	Chico	Butte
7/26/2016	Santa Ana	Orange
7/26/2016	Rosemead	Los Angeles
7/26/2016	Redding	Shasta
7/27/2016	Compton	Los Angeles
7/27/2016	Inglewood	Los Angeles
7/28/2016	El Cajon	San Diego
7/28/2016	San Diego	San Diego
8/2/2016	Truckee	Nevada

12/8/2015	Marin	Marin	8/3/2016	San Jose	Santa Clara
12/8/2015	Napa	Napa	8/3/2016	Coachella	Riverside
12/8/2015	Apple Valley	San Bernardino	8/3/2016	Richmond	Contra Costa
12/9/2015	South San Francisco	San Mateo	8/8/2016	San Luis Obispo	San Luis Obispo
12/9/2015	Milpitas	Santa Clara	8/8/2016	Santa Barbara	Santa Barbara
12/10/2015	Manteca	San Joaquin	8/9/2016	Ventura	Ventura
12/10/2015	Madera	Madera	8/9/2016	Salinas	Monterey
12/11/2015	Ridgecrest	Kern	8/11/2016	Carlsbad	San Diego
12/11/2015	Riverside	Riverside	8/12/2016	Stockton	San Joaquin
1/8/2016	San Marcos	San Diego			
Source: GO-Biz 07/2016					

Summary of Related Reports:

1. **California Competes Tax Credit Program Report (December 2014):** This mandated report was prepared by GO-Biz in response to supplemental budget reporting language. The report chronicles the establishment of the program, adoption of regulations, outreach activities, and a summary of the application process. Between the commencement of the program and December 2014, GO-Biz held 29 application workshops throughout the state, including four online webinars. Between the spring of 2014 and October 31, 2014, GO-Biz expended 2,653 hours of California Competes staff and used 2,822 hours of time redirected by other GO-Biz staff. In the first \$45 million round, GO-Biz received 286 applications for a total of \$330 million in tax credits. At the time of the report, first round awards had not been finalized. Two additional allocation rounds are anticipated in the 2015-16 fiscal year for a total of \$106.1 million in tax credits. *Document is not available online.*
2. **California Competes Credit Report (March 2016):** This mandated report was prepared by the Franchise Tax Board (FTB) to disclose the total annual amount of credits claimed under the California Competes Tax Credit in the most recent fiscal years. For the 2014 tax year, filed in 2015, FTB reports that \$3.6 million in credits were claimed on 79 returns. FTB also notes that these numbers do not reflect all fiscal year returns, as some have not been filed at the time of the report. FTB, however, notes that it defers to GO-Biz and the Department of Finance for actual estimated revenues loss. According to data provided by GO-Biz, there have been \$10.5 million in allocated tax credit agreements covering the 2014 tax year. *Document is not available online.*
3. **Foundation for a Better California (2015).** This report, prepared by the California Chamber of Commerce, provides an overview of the California economy noting that the economic recovery has been uneven and that certain industry sectors continue to lag in job recovery. In setting a public policy platform for moving forward, the report recommends five overarching principles with multiple specific policy actions under each of the following principles:
 - Keep taxes on new investment and business operations low, fair, stable, and predictable.
 - Reduce regulatory and litigation costs of operating a business – especially when hiring and keeping employees;
 - Reduce the cost and improve the certainty and stability of investing in new and expanded plants, equipment, and technologies;
 - Invest in public and private works that provide the backbone for economic growth; and

- Ensure availability of high-quality skilled employees.

The report also includes extended narrative relative to these recommendations, including international trade, data security, and workforce preparation. Within the workforce preparation sections, the report provides background on the opportunity gap, early childhood education, Common Core, and challenges in the state's higher education system. <http://advocacy.calchamber.com/policy/issues/foundation-for-a-better-california/>

4. ***The Global Competitiveness Report 2015-16 (2015)***. This report, prepared for the World Economic Forum, provides a comprehensive assessment of 140 world economies through the use of over 100 indicators spread out among 12 basic categories. The U.S. ranks third in the world, behind Switzerland and Singapore. The Report questions whether sluggish growth and persistent unemployment are the new normal. Among other findings, the report notes a correlation between competitiveness and an economy's ability to nurture, attract, leverage and support talent. While top-ranking countries do this well, in many countries, too few people have access to high-quality education and training, and labor markets are not flexible enough. <http://reports.weforum.org/global-competitiveness-report-2015-2016/>

Background on Creation of the Program: The California Competes Tax Credit was established in 2013. It was part of a package of bills that eliminated the California Enterprise Zones Program and its related tax credits, including the New Hire Credit and the Sales and Use Tax Credit, among others. The approximately \$750 million in tax incentives associated with those defunct programs was redirected to the California Competes Tax Credit, a more limited New Hire Credit, and a broader Sales and Use Tax-based incentive.

- ***AB 93 (Assembly Committee on Budget) Governor's Economic Development Initiative:*** 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 Enterprise Zones and similar tax incentive areas, and ending the current Small Business New Employment Tax Credit 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.

Technical changes were made to the AB 93 program structure in ***AB 106 (Assembly Committee on Budget)***, Chapter 355, Statutes of 2013; ***SB 90 (Galgiani)***, Chapter 70, Statutes of 2013; and ***SB 100 (Senate Committee on Budget and Finance)***, Chapter 360, Statutes of 2013.

- ***SB 836 (Senate Committee on Budget and Finance) California Competes Tax Credit Awards:*** This bill clarifies that GO-Biz may consider various criteria in awarding tax credits pursuant to the California Competes program, including the following:
 - a. The financial solvency of the taxpayer and the taxpayer's ability to finance its proposed expansion;
 - b. The taxpayer's current and prior compliance with federal and state tax laws;
 - c. Current and prior litigation involving the taxpayer;
 - d. The reasonableness of the fee arrangement between the taxpayer and any third party providing any services related to the credit; and

- e. Any other factors deemed necessary for the purposes of accountability, transparency, and effectiveness.

Selected Program Accomplishments:

- Awarded over \$340 million in tax credits to businesses who committed to investing \$12.9 billion in California and adding 55,956 net new jobs.
- 35.2% of the businesses assisted were awarded to taxpayers with less than \$2 million in revenues
- The CCTC unit has spoken with thousands of potential applicants through outreach workshops. To date, the unit has conducted 122 workshops and 13 webinars in partnership with over 165 local and statewide business organizations.
- The Council of Development Finance Agencies (CDFA) awarded GO-Biz the 2015 “CDFA Award of Excellence: Best Project” for the CCTC program.
- *GO-Biz will have an opportunity to provide additional accomplishments at the hearing.*

Areas for Possible Further Review:

Public Reporting: Statute requires GO-Biz to post information on its Internet website relating to each tax credit award, including the taxpayers name, estimated amount of each taxpayer's investment, estimated number of jobs created or retained, the amount of the credit allocated to the taxpayer, and the amount of any recaptured credit. When meeting this statutory requirement, GO-Biz has chosen to also include the city and industry sector. The JEDE Committee introduced legislation to codify best reporting practices and to ensure GO-Biz had the ability to track and understand which areas the state businesses were utilizing from the program. Members may wish to ask GO-Biz about how they currently use their tracking data to manage the program.

- **Poverty Alleviation:** The only statutory priority for the California Competes Tax Credit Programs is for applications which come from taxpayers with projects or businesses located in area of high unemployment or poverty. This is an area which many JEDE Members have identified as a priority. Members may wish to engage with GO-Biz on how this priority has impacted the tax credit allocation process. Another area that may be useful to discuss is how the "net new job" calculation differs from a commitment to create jobs in a specific geographic region. Both of these issues are being addressed in the proposed regulation change.
- **Small Businesses Application:** According to information provided by GO-Biz, 176 of the 500 businesses assisted have been awarded to small businesses, \$74,831,194 in credits to small businesses and \$265,303,821 to non-small businesses. The tax credit program has a 25% annual small business mandate. Since inception, GO-Biz is only slightly off the 25% mandate, with awards to small businesses totaling 22.0%. GO-Biz has provided a list of tax credits awarded to small businesses. Members may wish to engage with GO-Biz and the stakeholders on the challenges of using tax credits as a small business incentive and how this priority has impacted the tax credit allocation process.
- **Regulatory Simplicity:** Competitive tax credit allocation processes can be challenging to design and potentially costly to submit an application. In some cases, a business may hire an outside consultant to help prepare the application and provide required reporting. Members may wish to engage with GO-

Biz and the stakeholders on the current award process and discuss ways GO-Biz has or could streamline the application process.

Related Statute:

DIVISION 2. OTHER TAXES - PART 10. PERSONAL INCOME TAX
CHAPTER 2. Imposition of Tax [17041 - 17061]
Revenue and Taxation Code

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

(2) The credit under this section shall be allocated by GO-Biz with respect to the 2013–14 fiscal year through and including the 2017–18 fiscal year. The amount of credit allocated to a taxpayer with respect to a fiscal year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall 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 United States 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 duration of the proposed project and the duration the taxpayer commits to remain in this state.
- (H) The overall economic impact in this state of the taxpayer’s project or business.
- (I) The strategic importance of the taxpayer’s project or business to the state, region, or locality.
- (J) The opportunity for future growth and expansion in this state by the taxpayer’s business.
- (K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

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

- (A) Terms and conditions that include the taxable year or years for which the credit allocated shall be allowed, a minimum compensation level, and a minimum job retention period.
- (B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.
- (C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

- (1) “Committee” means the California Competes Tax Credit Committee established pursuant to Section 18410.2.
- (2) “GO-Biz” means the Governor’s Office of Business and Economic Development.

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

- (1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.
- (2) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.
- (3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

- (4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.
- (5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.
- (6) Post on its Internet Web site all of the following:
- (A) The name of each taxpayer allocated a credit pursuant to this section.
 - (B) The estimated amount of the investment by each taxpayer.
 - (C) The estimated number of jobs created or retained.
 - (D) The amount of the credit allocated to the taxpayer.
 - (E) The amount of the credit recaptured from the taxpayer, if applicable.
- (7) When determining whether to enter into a written agreement with a taxpayer pursuant to this section, GO-Biz may consider other factors, including, but not limited to, the following:
- (A) The financial solvency of the taxpayer and the taxpayer's ability to finance its proposed expansion.
 - (B) The taxpayer's current and prior compliance with federal and state laws.
 - (C) Current and prior litigation involving the taxpayer.
 - (D) 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.
 - (E) Any other factors GO-Biz deems necessary to ensure that the administration of the credit allowed pursuant to this section is a model of accountability and transparency and that the effective use of the limited amount of credit available is maximized.
- (d) For purposes of this section, the Franchise Tax Board shall do all of the following:
- (1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.
- (B) In the case of a taxpayer that is a "small business," as defined in Section 17053.73, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.
- (2) Notwithstanding Section 19542:
- (A) Notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.
 - (B) Provide information to GO-Biz with respect to whether a taxpayer is a "small business," as defined in Section 17053.73.
- (e) In the case where the credit allowed under this section exceeds the "net tax," as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.
- (f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee's recapture determination occurred.
- (g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 23689 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraphs (D) and (E):

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

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

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

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

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

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

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

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

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

(2) (A) In addition to the other amounts determined pursuant to paragraph (1), the Director of Finance may increase the aggregate amount of credit that may be allocated pursuant to this section and Section 23689 by up to twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The amount of any increase made pursuant to this paragraph, when combined with any increase made pursuant to paragraph (2) of subdivision (g) of Section 23689, shall not exceed twenty-five million dollars (\$25,000,000) per fiscal year through the 2017–18 fiscal year.

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

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

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

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

- (i) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall comply with existing law on the date the agreement is executed.
- (j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.
- (2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.
- (k) This section is repealed on December 1, 2025.

Section 17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2021, there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the “net tax,” as defined in Section 17039, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for that taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or economic development area, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or economic development area with comparable compensation.

(B) For purposes of this paragraph, “relocates to a designated census tract or economic development area” means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or economic development areas within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or economic development areas.

(C) This paragraph does not apply to a small business.

(4) The credit allowed by this section may be claimed only on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The “tentative credit amount” for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The “applicable percentage” for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The “applicable credit percentage” means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) “Base year” means the 2013 taxable year, except in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 1, 2015, the base year means the taxable year immediately preceding the taxable year in which a qualified full-time employee was first hired by the qualified taxpayer.

(5) “Acquired” includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

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

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

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

(7) “Designated census tract” means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) “Economic development area” means either of the following:

(A) A former enterprise zone. For purposes of this section, “former enterprise zone” means an enterprise zone designated and in effect as of December 31, 2011, any enterprise zone designated during 2012, and any revision of an enterprise zone prior to June 30, 2013, under former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

(B) A local agency military base recovery area designated as of the effective date of the act adding this subparagraph, in accordance with Section 7114 of the Government Code.

(9) “Minimum wage” means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(10) (A) “Qualified full-time employee” means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or economic development area.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

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

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual’s commencement of employment with the qualified taxpayer.

(II) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Is an ex-offender previously convicted of a felony.

(V) Is a recipient of either CalWORKs, in accordance with Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or general assistance, in accordance with Section 17000.5 of the Welfare and Institutions Code.

(B) An individual may be considered a qualified full-time employee only for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) “Qualified taxpayer” means a person or entity engaged in a trade or business within a designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23626 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term “pass-thru entity” means any partnership or “S” corporation.

(C) “Qualified taxpayers” shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(v) (I) An employer that is a sexually oriented business.

(II) For purposes of this clause:

(ia) “Sexually oriented business” means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(ib) “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(D) Subparagraph (C) shall not apply to a taxpayer that is a “small business.”

(12) “Qualified wages” means those wages that meet all of the following requirements:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of minimum wage.

(ii) (I) In the case of a qualified full-time employee employed in a designated pilot area, that portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds ten dollars (\$10) per hour or an equivalent amount for salaried employees, but does not exceed 350 percent of minimum wage. For qualified full-time employees described in the preceding

sentence, clause (ii) of subparagraph (A) of paragraph (10) is modified by substituting “ten dollars (\$10) per hour or an equivalent amount for salaried employees” for “150 percent of the minimum wage.”

(II) For purposes of this clause:

(ia) “Designated pilot area” means an area designated as a designated pilot area by the Governor’s Office of Business and Economic Development.

(ib) Areas that may be designated as a designated pilot area are limited to areas within a designated census tract or an economic development area with average wages less than the statewide average wages, based on information from the Labor Market Division of the Employment Development Department, and areas within a designated census tract or an economic development area based on high poverty or high unemployment.

(ic) The total number of designated pilot areas that may be designated is limited to five, one or more of which must be an area within five or fewer designated census tracts within a single county based on high poverty or high unemployment or an area within an economic development area based on high poverty or high unemployment.

(id) The designation of a designated pilot area shall be applicable for a period of four calendar years, commencing with the first calendar year for which the designation of a designated pilot area is effective. The applicable period of a designated pilot area may be extended, in the sole discretion of the Governor’s Office of Business and Economic Development, for an additional period of up to three calendar years. The applicable period, and any extended period, shall not extend beyond December 31, 2020.

(III) The designation of an area as a designated pilot area and the extension of the applicable period of a designated pilot area shall be at the sole discretion of the Governor’s Office of Business and Economic development and shall not be subject to administrative appeal or judicial review.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (n), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance’s redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer a designated census tract.

(13) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(14) (A) “Small business” means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars (\$2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, “gross receipts, less returns and allowances reportable to this state,” means the sum of the gross receipts from the production of business income, as defined in subdivision (a)

of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an “S” corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or “S” corporation and to each partner or shareholder.

(C) (i) “Small business” shall not include a sexually oriented business.

(ii) For purposes of this subparagraph:

(I) “Sexually oriented business” means a nightclub, bar, restaurant, or similar commercial enterprise that provides for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance.

(II) “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(15) An individual is “unemployed” for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of full-time employees employed in the base year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.

(C) The total number of full-time employees employed in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.

(2) For taxpayers who first commence doing business in this state during the taxable year, the number of full-time employees for the base year shall be zero.

(d) For purposes of this section:

- (1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.
- (2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276, without application of paragraph (7) of that subdivision, shall apply.
- (e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirements as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.
- (2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.
- (3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hired in a previous taxable year, on or before, the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.
- (4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.
- (f) The Franchise Tax Board shall do all of the following:
- (1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.
- (2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.
- (3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.
- (4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, 2021, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 23626.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date the Department of Finance redesignates the designated census tracts.

(h) For purposes of this section:

(1) All employees of the trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code shall be treated as employed by a single taxpayer.

(2) All employees of trades or businesses that are not incorporated, and that are under common control, shall be treated as employed by a single taxpayer.

(3) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated to that trade or business in that manner.

(4) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (h) of Section 23626, shall apply with respect to determining employment.

(5) If an employer acquires the major portion of a trade or business of another employer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (i), for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) does not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(C) A termination of employment of a qualified full-time employee, if it is determined that the termination was due to the misconduct, as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations, of that employee.

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

(E) A termination of employment of a qualified full-time employee, if that employee is replaced by other qualified full-time employees so as to create a net increase in both the number of employees and the hours of employment.

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

(3) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified full-time employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified full-time employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(4) An increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(j) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for a taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) A beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(k) In the case in which the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding four years if necessary, until the credit is exhausted.

(l) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(m) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department’s estimate with respect to that same fiscal year. If the

total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(n) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, 2021, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or economic development area in a taxable year beginning before January 1, 2021.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or an economic development area ceases to be an economic development area, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding or the economic development area was still in existence.

Section 18410.2. (a) The California Competes Tax Credit Committee is hereby established. The committee shall consist of the Treasurer, the Director of Finance, and the Director of the Governor's Office of Business and Economic Development, who shall serve as chair of the committee, or their designated representatives, and one appointee each by the Speaker of the Assembly and the Senate Committee on Rules. A Member of the Legislature shall not be appointed.

(b) For purposes of Sections 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of the following:

(1) Approve or reject any written agreement for a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the fully executed written agreement between the taxpayer and the Governor's Office of Business and Economic Development.

(2) Approve or reject any recommendation to recapture, in whole or in part, a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the recommendation from the Governor's Office of Business and Economic Development pursuant to the terms of the fully executed written agreement.

R&T Code 23698 includes the identical provisions of the California Competes Tax Credit in Corporate Income Tax