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AB-194 Taxation. (2021-2022)

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Assembly Bill No. 194

CHAPTER 55

An act to add Section 12419.3.3 to the Government Code, to amend Sections 17053.71, 17053.80, 17059.2, 17131.8, 23628, 23629, 23689, and 24308.6 of, to add Section 7102.1 to, to add and repeal Sections 6357.4, 17053.72.1, and 23627.1 of, and to repeal and add Section 19132.5 of, the Revenue and Taxation Code, and to amend Section 3 of Chapter 17 of the Statutes of 2021, relating to taxation, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 194, Committee on Budget. Taxation.

(1) Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by those laws.

This bill would, on and after October 1, 2022, and before October 1, 2023, exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption of, diesel fuel, as defined.

Existing law imposes or dedicates certain state sales and use tax rates for local funding, including through the Local Revenue Fund 2011, and imposes certain additional state sales and use tax rates on the sale or use of diesel fuel.

This bill would specify that this exemption does not apply to those state sales and use tax rates imposed or dedicated for local government funding, including those rates for which revenues are deposited into the Local Revenue Fund 2011, or to those certain additional state sales and use tax rates on the sale or use of diesel fuel.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

Existing law, pursuant to Proposition 116, as approved by the voters at the June 5, 1990, statewide general election, establishes the Public Transportation Account in the State Transportation Fund as a trust fund, with revenues derived from a portion of the sales tax on fuels to be used for mass transportation and transportation planning purposes authorized by the Legislature.

This bill would, on and after April 1, 2023, and before April 1, 2024, require the California Department of Tax and Fee Administration, with the concurrence of the Department of Finance, to estimate the amount of sales tax revenues foregone due to the above-described sales and use tax exemption, as described. The bill would require the Controller to transfer this estimated amount from the Retail Sales Tax Fund to the Public Transportation Account on a quarterly basis.

(2) The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally define "gross income" as income from whatever source derived, except as specifically excluded, and provide various exclusions from gross income. Existing law, in conformity with the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and its subsequent amendments in the Paycheck Protection Program and Health Care Enhancement Act, the Paycheck Protection Program Flexibility Act of 2020, and the Consolidated Appropriations Act, 2021, among other things, excludes any amounts of covered loans forgiven under the CARES Act from gross income for purposes of the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning on or after January 1, 2019.

This bill would exclude from gross income any covered loan amounts forgiven pursuant to the PPP Extension Act of 2021.

(3) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit against the personal income and corporate income taxes for each taxable year beginning on or after January 1, 2022, and before January 1, 2027, in an amount between \$2,500 and \$10,000, to a qualified taxpayer that employs an individual who is or recently was homeless, and who meets other specified requirements, as certified by a continuum of care or a community-based service provider, as provided. That credit also applies where the employee is receiving supportive services from a homeless services provider.

This bill would expand the credit to include qualified taxpayers that employ a person who has recently received services from a homeless services provider. The bill would also allow a continuum of care or a community-based service provider to issue recertifications, as described.

(4) The Personal Income Tax Law and the Corporation Tax Law authorize a credit against the taxes imposed by those laws for each taxable year beginning on or after January 1, 2020, and before January 1, 2021, to a qualified small business employer that receives a tentative credit reservation, in an amount equal to \$1,000 for each net increase in qualified employees, not to exceed \$100,000 for any qualified small business employer. Existing law authorizes a qualified small business employer that received a tentative credit reservation to irrevocably elect to apply the credit against qualified sales and use taxes imposed on the qualified small business employer in reporting periods commencing on January 1, 2021, and until April 20, 2026, as specified. Existing law requires the qualified small business employer to submit an application to the California Department of Tax and Fee Administration for a tentative credit reservation under these provisions, and requires the department to allocate the credit reservations on a first-come-first-served basis, not to cumulatively exceed \$100,000,000. Existing law authorizes a credit under these provisions only for credits claimed on a timely filed original return, as specified. Existing law repealed these provisions on December 1, 2021.

This bill, for taxable years beginning on or after January 1, 2020, and before January 1, 2021, would remove the limitation that the credit be claimed on a timely filed original return, as provided.

The Personal Income Tax Law and the Corporation Tax Law authorizes a 2nd credit against the personal income and corporate income taxes for each taxable year beginning on or after January 1, 2021, and before January 1, 2022, to a qualified small business employer that receives a tentative credit reservation, in an amount equal to \$1,000 for each net increase in qualified employees, not to exceed \$150,000 for any qualified small business employer. Existing law authorizes a qualified small business employer that received a tentative credit reservation to irrevocably elect to apply the credit against qualified sales and use taxes imposed on the qualified small business employer in reporting periods commencing on January 1, 2022, and until April 30, 2027, as specified. Existing law requires a qualified small business employer to submit an application to the California Department of Tax and Fee Administration for a tentative credit reservation under these provisions, and requires the department to allocate the credit reservations on a first-come-first-served basis not to cumulatively exceed the amount equal to \$70,000,000 plus any unallocated and available amount remaining from the prior credit described above. Existing law authorizes a credit under these provisions only for credits claimed on a timely filed original return, as specified. Existing law repeals these provisions on December 1, 2022.

This bill, for taxable years beginning on or after January 1, 2021, and before January 1, 2022, would remove the limitation that the credit be claimed on a timely filed original return, as provided. The bill would extend the repeal date for these provisions to December 1, 2026.

(5) Existing law requires the Controller to state an account with persons that receive funds or property belonging to the state and fail to properly render account thereof to the state, and persons that fail to pay to the State Treasury any money belonging to the state. Existing law requires the Controller to offset delinquent accounts against personal income tax refunds that have been certified by the Franchise Tax Board, subject to a specified priority.

This bill, for taxable years beginning on or after January 1, 2024, would prohibit the Controller from offsetting delinquent accounts against the personal income tax refunds of an individual who received the above-described earned income tax credit or the young child tax credit for the taxable year. The bill would specify that these provisions do not apply to delinquent accounts for the nonpayment of child or family support.

(6) The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws, known as the California Competes Tax Credit, for each taxable year beginning on and after January 1, 2014, and before January 1, 2030, in an amount allocated by GO-Biz through the 2022–23 fiscal year, and provided in a written agreement between GO-Biz and the taxpayer, approved by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credit that may be allocated in any fiscal year, including a limit of \$180,000,000 for the 2022–23 fiscal year.

This bill would extend the fiscal years for which GO-Biz can allocate credits to 2027–28, and would limit the aggregate amount of credit that may be allocated to \$180,000,000 for each fiscal year from 2023–24 to 2027–28, inclusive. The bill would also authorize GO-Biz to consider, when determining whether to enter into a written agreement with a taxpayer for the 2023–24 fiscal year, and each fiscal year thereafter, the taxpayer's commitment to treating their workforce fairly and creating quality, full-time, wage and salary jobs in the state and the taxpayer's willingness to relocate jobs into California from a state that, among other things, has enacted a law that authorizes or requires discrimination against same-sex couples or their families or discriminates on the basis of sexual orientation, gender identity, or gender expression, or a law that denies or interferes with a woman's right to choose to bear a child or to choose and obtain an abortion, as specified. The bill would make additional conforming changes related to these provisions.

(7) Existing law imposes penalties when a taxpayer fails to timely file an income tax return or fails to timely pay the tax due as shown on, or as required to be shown on, the tax return, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

This bill, for taxable years beginning on and after January 1, 2022, would require the Franchise Tax Board, upon request by an individual taxpayer, to grant a onetime abatement of a failure-to-file or failure-to-pay timeliness penalty if the taxpayer was not previously required to file a California personal income tax return or has not previously been granted abatement under the bill's provisions, the taxpayer has filed all required returns as of the date of the request for abatement, and the taxpayer has paid, or is in a current arrangement to pay, all tax currently due.

(8) Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would provide findings to comply with the additional information requirement for any bill authorizing a new tax expenditure.

(9) This bill would also make findings and declarations related to a gift of public funds.

(10) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12419.3.3 is added to the Government Code, to read:

12419.3.3. (a) Notwithstanding any other provision of this article, for taxable years beginning on or after January 1, 2024, the Controller shall not offset delinquent accounts against the personal income tax refunds of an individual who received the earned income tax credit under Section 17052 of the Revenue and Taxation Code or the young child tax credit under Section 17052.1 of the Revenue and Taxation Code for the taxable year.

(b) This section shall not apply to delinquent accounts for the nonpayment of child or family support.

SEC. 2. Section 6357.4 is added to the Revenue and Taxation Code, to read:

6357.4. (a) On and after October 1, 2022, and before October 1, 2023, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, diesel fuel, as defined in Section 60022.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by

subdivision (a) does not apply with respect to any tax levied pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.8, 6201.2, or 6201.8, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(c) This section shall become inoperative on October 1, 2023, and as of that date is repealed.

SEC. 3. Section 7102.1 is added to the Revenue and Taxation Code, to read:

7102.1. (a) On and after April 1, 2023, and before April 1, 2024, the California Department of Tax and Fee Administration, with the concurrence of the Department of Finance, shall, on a quarterly basis, estimate the revenues, less refunds, that, if not for Section 6357.4, would have been derived under this part at the $4\frac{3}{4}$ -percent rate, excluding the portion of the $4\frac{3}{4}$ -percent rate that is deposited in the State Treasury and credited to the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15, from the imposition of sales and use taxes on fuel, as defined for purposes of the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)).

(b) The Controller shall, on a quarterly basis, transfer the estimated amount from the Retail Sales Tax Fund to the Public Transportation Account, a trust fund in the State Transportation Fund.

(c) The quarterly estimates required by subdivision (a) shall be based on taxable transactions from October 1, 2022, to September 30, 2023, inclusive.

SEC. 4. Section 17053.71 of the Revenue and Taxation Code is amended to read:

17053.71. (a) (1) For each taxable year beginning on or after January 1, 2021, and before January 1, 2022, there shall be allowed a small business hiring credit against the "net tax," as defined in Section 17039, to a qualified small business employer that receives a tentative credit reservation under Section 6902.10, in an amount calculated pursuant to paragraph (2).

(2) The amount of the credit allowed by this subdivision shall be equal to the amount calculated pursuant to subparagraph (A) minus the amount calculated pursuant to subparagraph (B).

(A) One thousand dollars (\$1,000) for each net increase in qualified employees, as specified in subdivision (c), not to exceed one hundred fifty thousand dollars (\$150,000).

(B) If the qualified small business employer received a tentative credit reservation amount pursuant to Section 6902.8, either of the following applies:

(i) For a qualified small business employer that made an irrevocable election pursuant to Section 6902.8 to apply the credit against qualified sales and use taxes pursuant to Section 6902.7, the credit amounts allocated to the qualified small business employer pursuant to Sections 6902.7 and 6902.8.

(ii) For a qualified small business employer that elected to apply the credit under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both, the tentative credit reservation amount received by the qualified small business employer pursuant to Section 6902.8.

(b) For purposes of this section:

(1) "Monthly full-time equivalent" means either of the following:

(A) For a qualified employee paid hourly qualified wages, "monthly full-time equivalent" means the total number of hours employed per month for the qualified small business employer by the qualified employee, not to exceed 167 hours per month per qualified employee, divided by 167.

(B) In the case of a salaried qualified employee, "monthly full-time equivalent" means the total number of weeks employed per month for the qualified small business employer by the qualified employee divided by 4.33 multiplied by the time base the qualified employee was employed.

(2) (A) "Qualified employee" means an employee who is paid qualified wages by a qualified small business employer.

(B) "Qualified employee" shall not include an employee whose qualified wages are included in calculating any other credit allowed under this part, except for the credit allowed under Section 17053.72.

(3) (A) "Qualified small business employer" means a taxpayer that as of December 31, 2020, employed a total of 500 or fewer qualified employees and meets one of the following requirements:

(i) Has a decrease of 20 percent or more in gross receipts determined by comparing gross receipts for the period beginning on January 1, 2020, and ending on December 31, 2020, to the gross receipts for the period beginning on January 1, 2019, and ending on December 31, 2019.

(ii) Is a fiscal year filer that has a decrease of 20 percent or more in gross receipts determined by comparing either of the following:

(I) The gross receipts for fiscal year 2019–20 to the gross receipts from fiscal year 2018–19.

(II) The average of gross receipts for fiscal year 2019–20 and fiscal year 2020–21 to the gross receipts from fiscal year 2018–19.

(iii) For a taxpayer that first commences business after January 1, 2019, but on or before January 1, 2020, has a decrease of 20 percent or more in gross receipts in the second quarter of 2020 determined by comparing gross receipts from January 1, 2020, through February 28, 2020, multiplied by 1.5 to the gross receipts for the period beginning on April 1, 2020, and ending on June 30, 2020.

(B) "Qualified small business employer" does not include a taxpayer required to be included in a combined report under Section 25101 or 25110 or authorized to be included in a combined report under Section 25101.15.

(4) "Qualified wages" means wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(5) "Time base" means the fraction of full-time employment that the qualified employee is employed.

(6) "Weeks employed" means the total number of calendar days that a qualified employee was employed by the qualified small business employer during the month, divided by seven, not to exceed 4.33.

(c) The net increase in qualified employees of a qualified small business employer shall be equal to the amount calculated pursuant to paragraph (2) minus the amount calculated pursuant to paragraph (1).

(1) The average monthly full-time equivalent qualified employees employed during the three-month period beginning on April 1, 2020, and ending on June 30, 2020, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all three months and dividing the total by three.

(2) The lesser of either of the following:

(A) The average monthly full-time equivalent qualified employees employed during the 12-month period beginning on July 1, 2020, and ending on June 30, 2021, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all 12 months and dividing the total by 12.

(B) The average monthly full-time equivalent qualified employees employed during the three-month period beginning on April 1, 2021, and ending on June 30, 2021, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all three months and dividing the total by three.

(d) If 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 succeeding four years if necessary, until the credit is exhausted.

(e) A deduction otherwise allowed under this part for qualified wages shall be reduced by the amount of the credit allowed under this section.

(f) For purposes of this section all of the following shall apply:

(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 qualified small business employer.

(2) If a qualified small business employer changes its business form to a different entity type after receiving a tentative credit reservation under Section 6902.10 and continues operation, the new entity shall be allowed the credit, and the determination of

the amount of the credit under this section with respect to qualified wages paid or incurred by the qualified small business employer shall apply to the new entity as if those qualified wages were paid or incurred by the new entity.

(g) Notwithstanding Section 23803, an "S" corporation that makes the election under Section 6902.10 shall be allowed to apply the full credit amount against qualified sales and use tax, and no amount of credit shall be allowed to reduce the shareholder's liability under this part.

(h) A disallowance of a credit claimed due to the application of the limitation specified in Section 6902.10 shall be treated as a mathematical error appearing on the return. An amount of tax resulting from that disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

(i) (1) The Franchise Tax Board may adopt regulations necessary or appropriate to carry out the purposes of this section.

(2) The Franchise Tax Board may adopt rules, guidelines, procedures, or other guidance to carry out the purposes of 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 regulation, rule, guideline, procedure, or other guidance adopted by the Franchise Tax Board pursuant to this section.

(j) Notwithstanding Section 19542, the Franchise Tax Board may provide to the California Department of Tax and Fee Administration, only to the extent allowed under federal law, information related to the credit allowed by Section 6902.9, this section, and Section 23628, including, but not limited to, the qualified small business employer names, amounts of tax credits allowed under each section, amount of gross receipts, and the net increase in qualified employees.

(k) The amendments made by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(l) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 5. Section 17053.72.1 is added to the Revenue and Taxation Code, to read:

17053.72.1. (a) It is the intent of the Legislature to allow qualified small business employers that received a tentative credit reservation under Section 17053.72, as that section read on November 30, 2021, to amend their returns for taxable years beginning on or after January 1, 2020, and before January 1, 2021, to claim the credit allowed under Section 17053.72, as that section read on November 30, 2021.

(b) Notwithstanding subdivision (g) of Section 17053.72, as that section read on November 30, 2021, a qualified small business employer that received a tentative credit reservation under Section 17053.72, as that section read on November 30, 2021, for taxable years beginning on or after January 1, 2020, and before January 1, 2021, shall not be required to claim that credit on a timely filed original return.

(c) For the purposes of this section, "a qualified small business employer" has the same meaning as defined in Section 17053.72, as that section read on November 30, 2021.

(d) This section shall remain in effect only until December 1, 2025, and as of that date is repealed.

SEC. 6. Section 17053.80 of the Revenue and Taxation Code is amended to read:

17053.80. (a) (1) For each taxable year beginning on or after January 1, 2022, and before January 1, 2027, there shall be allowed to a qualified taxpayer that employs an eligible individual a credit against the "net tax," as defined in Section 17039, an amount as determined pursuant to paragraph (2), not to exceed thirty thousand dollars (\$30,000) per taxpayer per taxable year.

(2) A qualified taxpayer shall be allowed the credit pursuant to this section in the following amounts per taxable year:

(A) Two thousand five hundred dollars (\$2,500) for each eligible individual that works at least 500 hours, but fewer than 1,000 hours, for the eligible employer during the taxable year in which the credit is claimed.

(B) Five thousand dollars (\$5,000) for each eligible individual that works at least 1,000 hours, but fewer than 1,500 hours, for the eligible employer during the taxable year in which the credit is claimed.

(C) Seven thousand five hundred dollars (\$7,500) for each eligible individual that works at least 1,500 hours, but fewer than 2,000 hours, for the eligible employer during the taxable year in which the credit is claimed.

(D) Ten thousand dollars (\$10,000) for each eligible individual that works at least 2,000 hours for the eligible employer during the taxable year in which the credit is claimed.

(b) For purposes of this section:

(1) "Continuum of care" has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations.

(2) "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to Section 578.7 of Title 24 of the Code of Federal Regulations, designed to coordinate homelessness program participant intake, assessment, and provision of referrals.

(3) "Eligible employer" means a taxpayer that meets all of the following requirements:

(A) Pays wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(B) Pays at least 120 percent of minimum wage.

(C) Provides to the Franchise Tax Board, upon request, a copy of the certification received for each eligible individual for each tax year that the credit is claimed for that eligible individual by that eligible employer.

(4) "Eligible individual" means a person who meets both of the following criteria:

(A) The person is homeless or has received supportive services from a homeless services provider, as designated by a local continuum of care or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, on the date of the hire or anytime during the 180-day period immediately before the hire.

(B) The person has been issued a certification pursuant to paragraph (2) of subdivision (c), and that certification has not expired.

(5) "Homeless Management Information System" has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations. "Homeless Management Information System" includes the use of a comparable database by a victim services provider or legal services provider that is permitted by the federal government under Part 576 (commencing with Section 576.1) of Title 24 of the Code of Federal Regulations.

(6) "Person is homeless" means the same as "homeless" as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.

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

(8) "Qualified taxpayer" means an eligible employer that pays wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code to an eligible individual.

(c) (1) A credit shall not be allowed under this section unless the eligible employer submits to the Franchise Tax Board, upon request, a certification issued by a continuum of care, or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, or other program as specified by the Franchise Tax Board.

(2) A continuum of care or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, shall issue certifications for eligible individuals.

(3) The certification pursuant to paragraph (2) shall be issued in a form and manner prescribed by Franchise Tax Board.

(4) A certification issued pursuant to this subdivision shall expire one year after issuance.

(5) An eligible individual may receive a new certification pursuant to this subdivision if they are homeless or have received supportive services from a homeless services provider, as designated by a local continuum of care or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, on the date that the eligible individual receives a new certification or anytime during the 180-day period immediately before that date.

(d) (1) The total aggregate amount of the credit that may be allocated by credit reservations per calendar year to all qualified taxpayers pursuant to this section and Section 23629 shall not exceed thirty million dollars (\$30,000,000), plus the unallocated credit amount, if any, from the preceding calendar year.

(2) (A) To be eligible for the credit allowed by this section with respect to an eligible individual, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board, in the form and manner prescribed by the Franchise Tax Board, consistent with either of the following, as applicable:

(i) Within 30 days of hiring an eligible individual.

(ii) Within 60 days of receiving a new certification pursuant to paragraph (5) of subdivision (c).

(B) To obtain a credit reservation with respect to an eligible individual, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, how many hours the eligible individual is expected to work for the next 12 months, and the start date of employment.

(3) The Franchise Tax Board shall do both of the following:

(A) Approve a tentative credit reservation with respect to an eligible individual.

(B) Subject to the annual cap established as provided in paragraph (1), allocate an aggregate amount of credits under this section and Section 23629, and allocate any carryover of unallocated credits from prior years.

(e) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following taxable year, and succeeding two years if necessary, until the credit is exhausted.

(f) If the credit allowed by this section is claimed by the qualified taxpayer, a deduction otherwise allowed under this part for any amount of wages paid or incurred by the qualified taxpayer as a trade or business expense to an eligible individual shall be reduced by the amount of the credit allowed by this section.

(g) 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.

(h) This section shall remain in effect only until December 1, 2027, and as of that date is repealed.

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

17059.2. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2030, 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 2027–28 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.

(L) For a credit allocated beginning with the 2018–19 fiscal year, the training opportunities offered by the taxpayer to its employees.

(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 website 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.

(F) The primary location where the taxpayer has committed to increasing the net number of jobs or make investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.

(G) Information that identifies each tax credit award that was given a priority for being located in a high unemployment or poverty area, pursuant to paragraph (1).

(7) Consider 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:

(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) For allocation periods beginning with the 2023–24 fiscal year, the taxpayer's willingness to relocate jobs into California from a state that has enacted a law that does any of the following:

(i) Voids or repeals, or has the effect of voiding or repealing, existing state protections against discrimination on the basis of sexual orientation, gender identity, or gender expression.

(ii) Authorizes or requires discrimination against same-sex couples or their families, or discrimination on the basis of sexual orientation, gender identity, or gender expression.

(iii) Creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families, or permits discrimination on the basis of sexual orientation, gender identity, or gender expression.

(iv) Denies or interferes with, or has the effect of denying or interfering with, a woman's right to choose to bear a child or to choose and obtain an abortion, as provided by Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code.

(F) For allocation periods beginning with the 2023–24 fiscal year, the taxpayer's commitment to treating their workforce fairly and creating quality, full-time, wage and salary jobs in the state, evidence of which may include, but not be limited to, the following:

(i) Training, career ladder, apprenticeship, and preapprenticeship programs for nonsupervisory employees.

(ii) Joint labor-management letter of support.

(iii) A high percentage of full-time wage and salary employees compared to part-time, temporary, and independent contractors.

(iv) Little to no history of a bad safety record, or resolved or pending litigation, violations, citations, fines, or penalties relating to any state or federal environmental and labor laws within the last 10 years.

(G) 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.

(8) (A) Implementation of subparagraphs (E) and (F) of paragraph (7) of this subdivision for the 2022–23 fiscal year is deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and, therefore, the Governor's Office of Business and Economic Development is hereby authorized to adopt emergency regulations to implement subparagraphs (E) and (F) of paragraph (7) of this subdivision during the 2022–23 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) Nothing in this subdivision shall require the Governor's Office of Business and Economic Development to approve emergency regulations.

(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, notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(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, two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive,

one hundred eighty million dollars (\$180,000,000) for each fiscal year from 2018–19 to 2020–21, inclusive, two hundred ninety million dollars (\$290,000,000) for the 2021–22 fiscal year, and one hundred eighty million dollars (\$180,000,000) for each fiscal year from 2022–23 to 2027–28, 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 California Department of Tax and Fee Administration, 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 appropriations, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or the Chairperson's 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 2027–28 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 2027–28 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 through the 2017–18 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 2029–30 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) (1) Section 19542 shall apply to all information obtained by the Franchise Tax Board and GO-Biz for the purpose of administering the California Competes Tax Credit established under this section.

(2) Notwithstanding Section 19542 and paragraph (1), the Franchise Tax Board may disclose information to GO-Biz and GO-Biz may disclose information to the Franchise Tax Board for administration of the California Competes Tax Credit established under this section.

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

SEC. 8. Section 17131.8 of the Revenue and Taxation Code is amended to read:

17131.8. (a) For taxable years beginning on or after January 1, 2019, gross income does not include any covered loan amount forgiven pursuant to Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), pursuant to the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116-139), pursuant to the Paycheck Protection Program Flexibility Act of 2020 (Public Law 116-142), pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260), or pursuant to the PPP Extension Act of 2021 (Public Law 117-6).

(b) For taxable years beginning on or after January 1, 2019, gross income does not include any advance grant amount issued pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or pursuant to Section 331 of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(c) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2019, subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Paragraph (1) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(3) The provisions of paragraph (1) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260), relating to paragraphs (2) and (3) of subsection (i) of Section 7A of the Small Business Act, shall not apply to an ineligible entity.

(4) Paragraph (2) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply.

(d) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2019, subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986, in the case of any taxable year ending after the date of the enactment of this Act" with "For purposes of this part".

(3) Paragraphs (2) and (3) of subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(e) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2019, subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(3) Paragraphs (2) and (3) of subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(f) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2019, subsection (b) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (b) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-120) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(g) For purposes of this section, all of the following definitions shall apply:

(1) "Covered loan" has the same meaning as in Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(2) "Advance grant amount" means an emergency Economic Injury Disaster Loan grant pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or a targeted Economic Injury Disaster Loan advance pursuant to Section 331 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(3) "Ineligible entity" means a taxpayer that either:

(A) Is a publicly traded company.

(B) Does not meet the reduction from the gross receipts requirements of Section 636(a)(37)(A)(iv)(bb) of Title 15 of the United States Code, as added by Section 311 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(4) "Publicly traded company" means a publicly traded entity as described in Section 342 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(h) The Administrative Procedure Act (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 standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this section.

(i) The amendments made by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2019.

SEC. 9. Section 19132.5 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 19132.5 is added to the Revenue and Taxation Code, to read:

19132.5. (a) (1) An individual taxpayer may elect to request a one-time abatement of a timeliness penalty under this section for a timeliness penalty that has been considered and rejected for abatement pursuant to the provisions of the section under which the penalty is imposed.

(2) An individual taxpayer may, in lieu of requesting consideration for abatement pursuant to the section under which the timeliness penalty is imposed, instead request a one-time abatement of a timeliness penalty under this section.

(b) If a taxpayer described in subdivision (a) requests, either orally or in writing, the abatement of a timeliness penalty pursuant to this section, the timeliness penalty shall be abated if all of the following apply:

(1) The taxpayer has not previously been required to file a California personal income tax return under Part 10 (commencing with Section 17001) or has not previously been granted abatement under this section.

(2) The taxpayer has filed all returns required under Part 10 (commencing with Section 17001) as of the date of the taxpayer's request for abatement under this section.

(3) Excluding the timeliness penalty that is the subject of the abatement request under this section, the taxpayer has paid in full, or arranged to pay pursuant to an installment agreement, any tax, penalties, fees, and interest due for the required returns pursuant to paragraph (2) and the taxpayer is current with all installment payments.

(c) For purposes of this section, "timeliness penalty" means a penalty imposed under Section 19131 or 19132 for one taxable year with respect to a return filed by an individual for that taxable year.

(d) For purposes of this section:

(1) A timeliness penalty imposed and subsequently abated due to a determination of reasonable cause, or reasonable cause and not willful neglect, with respect to the taxpayer or the taxpayer's spouse shall be considered to have not been imposed for purposes of determining eligibility for timeliness penalty abatement under this section.

(2) A timeliness penalty shall be considered imposed on the original due date of the return for the taxable year for which the penalty is imposed.

(e) 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.

(f) This section shall apply to requests for abatement made for taxable years beginning on or after January 1, 2022.

SEC. 11. Section 23627.1 is added to the Revenue and Taxation Code, to read:

23627.1. (a) It is the intent of the Legislature to allow qualified small business employers that received a tentative credit reservation under Section 23627, as that section read on November 30, 2021, to amend their returns for taxable years beginning on or after January 1, 2020, and before January 1, 2021, to claim the credit allowed under Section 23627, as that section read on November 30, 2021.

(b) Notwithstanding subdivision (g) of Section 23627, as that section read on November 30, 2021, a qualified small business employer that received a tentative credit reservation under Section 23627, as that section read on November 30, 2021, for taxable years beginning on or after January 1, 2020, and before January 1, 2021, shall not be required to claim that credit on a timely filed original return.

(c) For the purposes of this section, "a qualified small business employer" has the same meaning as defined in Section 23627, as that section read on November 30, 2021.

(d) This section shall remain in effect only until December 1, 2025, and as of that date is repealed.

SEC. 12. Section 23628 of the Revenue and Taxation Code is amended to read:

23628. (a) (1) For each taxable year beginning on or after January 1, 2021, and before January 1, 2022, there shall be allowed a small business hiring credit against the "tax," as defined in Section 23036, to a qualified small business employer that receives a tentative credit reservation under Section 6902.10, in an amount calculated pursuant to paragraph (2).

(2) The amount of credit determined by this subdivision shall be equal to the amount calculated pursuant to subparagraph (A) minus the amount calculated pursuant to subparagraph (B).

(A) One thousand dollars (\$1,000) for each net increase in qualified employees, as specified in subdivision (c), not to exceed one hundred fifty thousand dollars (\$150,000).

(B) If the qualified small business employer received a tentative credit reservation amount pursuant to Section 6902.8, either of the following applies:

(i) For a qualified small business employer that made an irrevocable election pursuant to Section 6902.8 to apply the credit against qualified sales and use taxes pursuant to Section 6902.7, the credit amounts allocated to the qualified small business employer pursuant to Sections 6902.7 and 6902.8.

(ii) For a qualified small business employer that elected to apply the credit under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both, the tentative credit reservation amount received by the qualified small business employer pursuant to Section 6902.8.

(b) For purposes of this section:

(1) "Monthly full-time equivalent" means either of the following:

(A) In the case of a qualified employee paid hourly qualified wages, "monthly full-time equivalent" means the total number of hours employed per month for the qualified small business employer by the qualified employee, not to exceed 167 hours per month per qualified employee, divided by 167.

(B) In the case of a salaried qualified employee, "monthly full-time equivalent" means the total number of weeks employed per month for the qualified small business employer by the qualified employee divided by 4.33 multiplied by the time base the qualified employee was employed.

(2) (A) "Qualified employee" means an employee who is paid qualified wages by a qualified small business employer.

(B) "Qualified employee" shall not include an employee whose qualified wages are included in calculating any other credit allowed under this part, except for the credit allowed under Section 23627.

(3) (A) "Qualified small business employer" means a taxpayer that as of December 31, 2020, employed a total of 500 or fewer qualified employees and meets either of the following requirements:

(i) Has a decrease of 20 percent or more in gross receipts determined by comparing gross receipts beginning on January 1, 2020, and ending on December 31, 2020, to the gross receipts beginning on January 1, 2019, and ending on December 31, 2019.

(ii) Is a fiscal year filer that has a decrease of 20 percent or more in gross receipts determined by comparing either of the following:

(I) The gross receipts for fiscal year 2019–20 to the gross receipts from fiscal year 2018–19.

(II) The average of gross receipts for fiscal year 2019–20 and fiscal year 2020–21 to the gross receipts from fiscal year 2018–19.

(iii) For a taxpayer that first commences business after January 1, 2019, but on or before January 1, 2020, has a decrease of 20 percent or more in gross receipts in the second quarter of 2020 determined by comparing gross receipts from January 1, 2020, through February 28, 2020, multiplied by 1.5 to the gross receipts for the period beginning on April 1, 2020, and ending on June 30, 2020.

(B) "Qualified small business employer" does not include a taxpayer required to be included in a combined report under Section 25101 or 25110 or authorized to be included in a combined report under Section 25101.15.

(4) "Qualified wages" means wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(5) "Time base" means the fraction of full-time employment that the qualified employee is employed.

(6) "Weeks employed" means the total number of calendar days that a qualified employee was employed by the qualified small business employer during the month, divided by seven, not to exceed 4.33.

(c) The net increase in qualified employees of a qualified small business employer shall be equal to the amount calculated pursuant to paragraph (2) minus the amount calculated pursuant to paragraph (1).

(1) The average monthly full-time equivalent qualified employees employed during the three-month period beginning on April 1, 2020, and ending on June 30, 2020, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all three months and dividing the total by three.

(2) The lesser of either of the following:

(A) The average monthly full-time equivalent qualified employees employed during the 12-month period beginning on July 1, 2020 and ending on June 30, 2021, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all 12 months and dividing the total by 12.

(B) The average monthly full-time equivalent qualified employees employed during the three-month period beginning on April 1, 2021 and ending on June 30, 2021, by the qualified small business employer. The average monthly full-time equivalent qualified employees is determined by adding the total monthly full-time equivalent qualified employees employed by the qualified small business employer for all three months and dividing the total by three.

(d) If the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding four years if necessary, until the credit is exhausted.

(e) A deduction otherwise allowed under this part for qualified wages shall be reduced by the amount of the credit allowed under this section.

(f) 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 qualified small business employer.

(2) If a qualified small business employer changes its business form to a different entity type after receiving a tentative credit reservation under Section 6902.10 and continues operation, the new entity shall be allowed the credit, and the determination of the amount of the credit under this section with respect to qualified wages paid or incurred by the qualified small business employer shall apply to the new entity as if those qualified wages were paid or incurred by the new entity.

(g) Notwithstanding Section 23803, an "S" corporation that makes the election under Section 6902.10 shall be allowed to apply the full credit amount against qualified sales and use tax, and no amount of credit shall be allowed to reduce the shareholder's liability under Part 10 (commencing with Section 17001).

(h) A disallowance of a credit claimed due to the application of the limitation specified in Section 6902.10 shall be treated as a mathematical error appearing on the return. An amount of tax resulting from that disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

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

(2) The Franchise Tax Board may adopt rules, guidelines, procedures, or other guidance to carry out the purposes of 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 regulation, rule, guideline, procedure, or other guidance adopted by the Franchise Tax Board pursuant to this section.

(j) Notwithstanding Section 19542, the Franchise Tax Board may provide to the California Department of Tax and Fee Administration, only to the extent allowed under federal law, information related to the credit allowed by Section 6902.9, this section, and Section 17053.71, including, but not limited to, the qualified small business employer names, amounts of tax credits allowed under each section, amount of gross receipts, and the net increase in qualified employees.

(k) The amendments made by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(l) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 13. Section 23629 of the Revenue and Taxation Code is amended to read:

23629. (a) (1) For each taxable year beginning on or after January 1, 2022, and before January 1, 2027, there shall be allowed to a qualified taxpayer that employs an eligible individual a credit against the "tax," as defined in Section 23036, an amount as determined pursuant to paragraph (2), not to exceed thirty thousand dollars (\$30,000) per taxpayer per taxable year.

(2) A qualified taxpayer shall be allowed the credit pursuant to this section in the following amounts per taxable year:

(A) Two thousand five hundred dollars (\$2,500) for each eligible individual that works at least 500 hours, but fewer than 1,000 hours, for the eligible employer during the taxable year in which the credit is claimed.

(B) Five thousand dollars (\$5,000) for each eligible individual that works at least 1,000 hours, but fewer than 1,500 hours, for the eligible employer during the taxable year in which the credit is claimed.

(C) Seven thousand five hundred dollars (\$7,500) for each eligible individual that works at least 1,500 hours, but fewer than 2,000 hours, for the eligible employer during the taxable year in which the credit is claimed.

(D) Ten thousand dollars (\$10,000) for each eligible individual that works at least 2,000 hours for the eligible employer during the taxable year in which the credit is claimed.

(b) For purposes of this section:

(1) "Continuum of care" has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations.

(2) "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to Section 578.7 of Title 24 of the Code of Federal Regulations, designed to coordinate homelessness program participant intake, assessment, and provision of referrals.

(3) "Eligible employer" means a taxpayer that meets all of the following requirements:

(A) Pays wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(B) Pays at least 120 percent of minimum wage.

(C) Provides to the Franchise Tax Board, upon request, a copy of the certification received for each eligible individual for each tax year that the credit is claimed for that eligible individual by that eligible employer.

(4) "Eligible individual" means a person who meets both of the following criteria:

(A) The person is homeless or has received supportive services from a homeless services provider, as designated by a local continuum of care or a community-based service provider that is connected to the local coordinated entry system or to

a local Homeless Management Information System, on the date of the hire or anytime during the 180-day period immediately before the hire.

(B) The person has been issued a certification pursuant to paragraph (2) of subdivision (c), and that certification has not expired.

(5) "Homeless Management Information System" has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations. "Homeless Management Information System" includes the use of a comparable database by a victim services provider or legal services provider that is permitted by the federal government under Part 576 of Title 24 of the Code of Federal Regulations.

(6) "Person is homeless" means the same as "homeless" as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.

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

(8) "Qualified taxpayer" means an eligible employer that pays wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code to an eligible individual.

(c) (1) A credit shall not be allowed under this section unless the eligible employer submits to the Franchise Tax Board, upon request, a certification issued by a continuum of care, or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, or other program as specified by the Franchise Tax Board.

(2) A continuum of care or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, shall issue certifications for eligible individuals.

(3) The certification pursuant to paragraph (2) shall be issued in a form and manner prescribed by Franchise Tax Board.

(4) A certification issued pursuant to this subdivision shall expire one year after issuance.

(5) An eligible individual may receive a new certification pursuant to this subdivision if they are homeless or have received supportive services from a homeless services provider, as designated by a local continuum of care or a community-based service provider that is connected to the local coordinated entry system or to a local Homeless Management Information System, on the date that the eligible individual receives a new certification or anytime during the 180-day period immediately before that date.

(d) (1) The total aggregate amount of the credit that may be allocated by credit reservations per calendar year to all qualified taxpayers pursuant to this section and Section 17053.80 shall not exceed thirty million dollars (\$30,000,000), plus the unallocated credit amount, if any, from the preceding calendar year.

(2) (A) To be eligible for the credit allowed by this section with respect to an eligible individual, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board, in the form and manner prescribed by the Franchise Tax Board, consistent with either of the following, as applicable:

(i) Within 30 days of hiring an eligible individual.

(ii) Within 60 days of receiving a new certification pursuant to paragraph (5) of subdivision (c).

(B) To obtain a credit reservation with respect to an eligible individual, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, how many hours the eligible individual is expected to work for the next 12 months, and the start date of employment.

(3) The Franchise Tax Board shall do both of the following:

(A) Approve a tentative credit reservation with respect to an eligible individual.

(B) Subject to the annual cap established as provided in paragraph (1), allocate an aggregate amount of credits under this section and Section 17053.80, and allocate any carryover of unallocated credits from prior years.

(e) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following taxable year, and succeeding two years if necessary, until the credit is exhausted.

(f) If the credit allowed by this section is claimed by the qualified taxpayer, a deduction otherwise allowed under this part for any amount of wages paid or incurred by the qualified taxpayer as a trade or business expense to an eligible individual shall be

reduced by the amount of the credit allowed by this section.

(g) 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.

(h) This section shall remain in effect only until December 1, 2027, and as of that date is repealed.

SEC. 14. Section 23689 of the Revenue and Taxation Code is amended to read:

23689. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2030, there shall be allowed as a credit against the "tax," as defined in Section 23036, 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 2027–28 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.

(L) For a credit allocated beginning with the 2018–19 fiscal year, the training opportunities offered by the taxpayer to its employees.

(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 website 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.

(F) The primary location where the taxpayer has committed to increasing the net number of jobs or make investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.

(G) Information that identifies each tax credit award that was given a priority for being located in a high unemployment or poverty area, pursuant to paragraph (1).

(7) Consider 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:

(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) For allocation periods beginning with the 2023–24 fiscal year, the taxpayer's willingness to relocate jobs into California from a state that has enacted a law that does any of the following:

(i) Voids or repeals, or has the effect of voiding or repealing, existing state protections against discrimination on the basis of sexual orientation, gender identity, or gender expression.

(ii) Authorizes or requires discrimination against same-sex couples or their families, or discrimination on the basis of sexual orientation, gender identity, or gender expression.

(iii) Creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families, or permits discrimination on the basis of sexual orientation, gender identity, or gender expression.

(iv) Denies or interferes with, or has the effect of denying or interfering with, a woman's right to choose to bear a child or to choose and obtain an abortion, as provided by Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code.

(F) For allocation periods beginning with the 2023–24 fiscal year, the taxpayer's commitment to treating their workforce fairly and creating quality, full-time, wage and salary jobs in the state, evidence of which may include, but not be limited to, the following:

(i) Training, career ladder, apprenticeship, or preapprenticeship programs for nonsupervisory employees.

(ii) Joint labor-management letter of support.

(iii) A high percentage of full-time wage and salary employees compared to part-time, temporary, and independent contractors.

(iv) Little to no history of a bad safety record, or resolved or pending litigation, violations, citations, fines, or penalties relating to any state or federal environmental and labor laws within the last 10 years.

(G) 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.

(8) (A) Implementation of subparagraphs (E) and (F) of paragraph (7) of this subdivision for the 2022–23 fiscal year is deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and, therefore, the Governor's Office of Business and Economic Development is hereby authorized to adopt emergency regulations to implement subparagraphs (E) and (F) of paragraph (7) of this subdivision during the 2022–23 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) Nothing in this subdivision shall require the Governor's Office of Business and Economic Development to approve emergency regulations.

(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 23626, 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, notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

(e) In the case where the credit allowed under this section exceeds the "tax," as defined in Section 23036, for a taxable year, the excess credit may be carried over to reduce the "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 17059.2 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, two hundred million dollars (\$200,000,000) for each fiscal year from 2015–16 to 2017–18, inclusive, one hundred eighty million dollars (\$180,000,000) for each fiscal year from 2018–19 to 2020–21, inclusive, two hundred ninety million dollars (\$290,000,000) for the 2021–22 fiscal year, and one hundred eighty million dollars (\$180,000,000) for each fiscal year from 2022–23 to 2027–28, 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 California Department of Tax and Fee Administration, 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, 17059.2, and 23626 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 appropriations, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or the Chairperson's 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 17059.2 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 17059.2 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 17059.2 shall continue if the repeal dates of the credits allowed by this section and Section 17059.2 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 17059.2 by up to twenty-five million dollars (\$25,000,000) per fiscal year through the 2027–28 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 17059.2, shall not exceed twenty-five million dollars (\$25,000,000) per fiscal year through the 2027–28 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 through the 2017–18 fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 17059.2 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) (1) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall not restrict, broaden, or otherwise alter the ability of the taxpayer to assign that credit or any portion thereof in accordance with Section 23663.

(2) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section must 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 2029–30 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) (1) Section 19542 shall apply to all information obtained by the Franchise Tax Board and GO-Biz for the purpose of administering the California Competes Tax Credit established under this section.

(2) Notwithstanding Section 19542 and paragraph (1), the Franchise Tax Board may disclose information to GO-Biz and GO-Biz may disclose information to the Franchise Tax Board for administration of the California Competes Tax Credit established under this section.

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

SEC. 15. Section 24308.6 of the Revenue and Taxation Code is amended to read:

24308.6. (a) For taxable years beginning on or after January 1, 2019, gross income does not include any covered loan amount forgiven pursuant to Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), pursuant to the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116-139), pursuant to the Paycheck Protection Program Flexibility Act of 2020 (Public Law 116-142), pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260), or pursuant to the PPP Extension Act of 2021 (Public Law 117-6).

(b) For taxable years beginning on or after January 1, 2019, gross income does not include any advance grant amount issued pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or pursuant to Section 331 of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(c) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2019, subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Paragraph (1) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(3) The provisions of paragraph (1) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260), relating to paragraphs (2) and (3) of subsection (i) of Section 7A of the Small Business Act, shall not apply to an ineligible entity.

(4) Paragraph (2) of subsection (a) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply.

(d) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2019, subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986, in the case of any taxable year ending after the date of the enactment of this Act" with "For purposes of this part".

(3) Paragraphs (2) and (3) of subsection (b) of Section 276 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(e) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2019, subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(3) Paragraphs (2) and (3) of subsection (a) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(f) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2019, subsection (b) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (b) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-120) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(g) For purposes of this section, all of the following definitions shall apply:

(1) "Covered loan" has the same meaning as in Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(2) "Advance grant amount" means an emergency Economic Injury Disaster Loan grant pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), or a targeted Economic Injury Disaster Loan advance pursuant to Section 331 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(3) "Ineligible entity" means a taxpayer that either:

(A) Is a publicly traded company.

(B) Does not meet the reduction from the gross receipts requirements of Section 636(a)(37)(A)(iv)(bb) of Title 15 of the United States Code, as added by Section 311 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(4) "Publicly traded company" means a publicly traded entity as described in Section 342 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(h) The Administrative Procedure Act (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 standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this section.

(i) The amendments made by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2019.

SEC. 16. Section 3 of Chapter 17 of the Statutes of 2021 is amended to read:

Sec. 3. For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17131.8 and 24308.6 of the Revenue and Taxation Code as amended by Chapter 17 of the Statutes of 2021 and the act amending this section (hereafter "the deductions, tax basis, and other attributes"), the Legislature finds and declares all of the following:

(a) The specific goal, purpose, and objective that the deductions, tax basis, and other attributes will achieve is to provide assistance to small businesses operating in the state that have been harmed economically by the COVID-19 pandemic.

(b) Detailed performance indicators for the Legislature to use in determining whether the deductions, tax basis, and other attributes meet the goal, purpose, and objective described in subdivision (a) is the extent to which the businesses that received the Payroll Protection Program (PPP) loans and subsequently used the deductions, tax basis, and other attributes reflect the industries, regions, and businesses by type of ownership that were most substantially harmed by the COVID-19 pandemic, and whether any particular industries, regions, or businesses by type of ownership in the business community were not able to participate in the PPP loans and the deductions, tax basis, and other attributes.

(c) The Legislative Analyst's Office shall collaborate with the Franchise Tax Board, as well as reviewing other publicly available data, to analyze whether the PPP loans and the tax benefits of the deductions, tax basis, and other attributes were distributed evenly over industries, regions, and businesses by type of ownership harmed by the COVID-19 pandemic and report by January 1, 2024, and in compliance with Section 9795 of the Government Code, to the Legislature.

(d) The data collection requirements for determining whether the deductions, tax basis, and other attributes meet, or fail to meet, the specific goal, purpose, and objective described in subdivision (a) are:

(1) To assist the Legislature in determining whether the deductions, tax basis, and other attributes meet the specific goal, purpose, and objective described in subdivision (a), and in order to carry out its duties pursuant to subdivision (c), the Legislative Analyst's Office may request information from the Franchise Tax Board.

(2) (A) The Franchise Tax Board shall provide any available data requested by the Legislative Analyst's Office pursuant to this subdivision.

(B) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

SEC. 17. (a) For purposes of complying with Section 41 of the Revenue and Taxation Code with respect to Section 6357.4 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares that the purpose of the exemption allowed by Section 6357.4 of the Revenue and Taxation Code is to provide financial relief to California businesses and residents that use diesel fuel.

(b) The performance indicators for the Legislature to use in determining whether the exemption achieves its stated goals shall be the total gallons of diesel fuel that were partially exempted from sales tax pursuant to this act, and the total dollar value of taxable diesel sales that were partially exempted from sales tax pursuant to this act.

(c) (1) The California Department of Tax and Fee Administration shall prepare a written report that includes both of the following:

(A) The estimated total number of gallons of diesel fuel that were partially exempted from sales tax pursuant to this act.

(B) The estimated total dollar value of taxable diesel sales that were partially exempted from sales tax pursuant to this act.

(2) The disclosure provisions of this subdivision shall be treated as an exception to Section 7056.5 of the Revenue and Taxation Code.

SEC. 18. The Legislature hereby finds and declares that allowing taxpayers with tentative credit reservations for the credits allowed under former Section 17053.72 and Section 23627 of the Revenue and Taxation Code, as those sections read on November 30, 2021, and under Sections 17053.71 and 23628 of the Revenue and Taxation Code, to claim those credits on an amended return pursuant to Sections 17053.72.1 and 23627.1 of the Revenue and Taxation Code, as added by this act, and Sections 17053.71 and 23628 of the Revenue and Taxation Code, as amended by this act, allows more flexibility for those eligible taxpayers to claim reserved credits, thereby helping more small businesses that were affected by the COVID-19 pandemic, and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 19. The Legislature hereby finds and declares that the tax benefits authorized by the amendments to Sections 17131.8 and 24308.6 of the Revenue and Taxation Code made by this act serve the public purpose of securing the financial condition of businesses that were economically harmed by the COVID-19 pandemic and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.