Assembly Bill No. 85

Passed the Assembly June 15, 2020

_____

Chief Clerk of the Assembly

Passed the Senate June 15, 2020

_____

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2020, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 6363.9, 6363.10, 6902.5, 17053.95, 17935, 17941, 17948, 19533, 23695, 61015, 61020, and 61030 of, and to add Sections 6295, 12209, 17039.3, 17276.23, 23036, 23036.3, and 24416.23 to, the Revenue and Taxation Code, to amend Sections 426 and 4456 of, and to add Section 4750.6 to, the Vehicle Code, and to amend Section 12 of Chapter 34 of the Statutes of 2019, relating to state taxes and charges, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 85, Committee on Budget. State taxes and charges.

(1) Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law generally provides that the taxes are due and payable to the California Department of Tax and Fee Administration quarterly on or before the last day of the month next succeeding each quarterly period and requires, for purposes of sales tax, a return to be filed by a seller that contains, among other information, the gross receipts of the seller during the preceding reporting period.

This bill, when a vehicle required to be registered under the Vehicle Code is sold at retail on and after January 1, 2021, by any dealer holding a license issued pursuant to the Vehicle Code, except a new motor vehicle dealer, as specified, would require the dealer to pay the applicable sales tax to the Department of Motor Vehicles acting for and on behalf of the California Department of Tax and Fee Administration within 30 days from the date of the sale. The bill would impose specified penalties if the dealer makes an application to the Department of Motor Vehicles that is not timely and imposes penalties and interest if the dealer fails to make an application to the Department of Motor Vehicles, fails to pay the sales tax, or fails to timely file the return required by the Sales and

Use Tax Law with the California Department of Tax and Fee Administration.

Existing law generally requires the registration of vehicles by the Department of Motor Vehicles and requires that department to issue a certificate of ownership to the legal owner and a registration card to the owner, as specified, upon registering that vehicle. Existing law requires the Department of Motor Vehicles to develop a system for dealers and lessor-retailers to electronically report the sale of a vehicle before the vehicle is delivered to the purchaser, and requires the dealers and lessor-retailers to take specified actions after providing information to the reporting system, including submitting to the Department of Motor Vehicles an application accompanied by all fees and penalties due for registration or transfer of registration of the vehicle within a specified period.

This bill would require, for retail sales of vehicles occurring on and after January 1, 2021, a dealer, other than a new motor vehicle dealer, as specified, to also submit with the application payment of the applicable sales tax to the Department of Motor Vehicles. The bill would require the Department of Motor Vehicles to transmit to the California Department of Tax and Fee Administration all collections of sales tax and penalty within 30 days, as specified. The bill would require the Department of Motor Vehicles to withhold the registration or the transfer of registration of any vehicle sold at retail on and after January 1, 2021, to any applicant by any dealer holding a license issued pursuant to the Vehicle Code, other than a new motor vehicle dealer, as specified, until the dealer pays to the Department of Motor Vehicles the sales tax and any penalties, except as specified. The bill would require the California Department of Tax and Fee Administration to reimburse the Department of Motor Vehicles for its costs incurred.

(2) Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes, including, until January 1, 2022, an exemption for the sale of, or the storage, use, or other consumption of, diapers for

infants, toddlers, and children and menstrual hygiene products, as defined.

In compliance with a state constitutional requirement, existing law requires the Department of Finance, beginning on May 15, 2020, to estimate the total dollar amount of revenue that would have been credited to the Local Revenue Fund 2011 for a fiscal year if not otherwise exempted under the sales and use tax exemptions for diapers for infants, toddlers, and children and menstrual hygiene products and requires the Controller to transfer that amount from the General Fund to the Local Revenue Fund 2011, a continuously appropriated fund, no later than June 30 of each fiscal year.

This bill would extend the sales and use tax exemptions for the sale of, or the storage, use, or other consumption of, diapers for infants, toddlers, and children and menstrual hygiene products until July 1, 2023. By extending the above-described transfers of estimated total dollar amount of revenues that would have been credited to the Local Revenue Fund 2011 by the Controller from the General Fund to the Local Revenue Fund 2011, a continuously appropriated fund, the bill would make an appropriation.

Existing law requires the Legislative Analyst's Office, on or before January 1, 2021, to submit specified reports to the Assembly Committee on Revenue and Taxation and to the Senate Governance and Finance Committee relating to the effectiveness of the sales and use tax exemptions for diapers for infants, toddlers, and children and menstrual hygiene products.

This bill would extend the due date of those reports to July 1, 2022.

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.

Existing law requires the state to reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

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

(3) The Sales and Use Tax Law, in lieu of specified credits allowed under the Personal Income Tax Law and the Corporation Tax Law for qualified expenditures paid or incurred by a taxpayer for the production of a qualified motion picture, allows a qualified taxpayer or affiliate to make an irrevocable election to (1) claim a refund of qualified sales and use taxes previously paid during a specified period not exceeding the income tax credit amount and (2) apply that income tax credit amount against qualified sales and use taxes imposed on the qualified taxpayer in the reporting periods in the 5 years following the reporting period for which the claimant was required to file its most recent sales and use tax return, as specified.

This bill would prohibit the total amount of refunds or credit offsets claimed in lieu of qualified motion picture tax credits that would otherwise be allowed for a taxable year beginning on or after January 1, 2020, and before January 1, 2023, from exceeding $5,000,000. This bill would provide, that for those amounts for which an irrevocable election is made in lieu of those qualified motion picture tax credits that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, that are in excess of $5,000,000 for that taxable year, the claimant may offset that excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the 5 years following and including the reporting period beginning on and after January 1, 2024. The bill would not apply to irrevocable elections made before the operative date of the bill.

Existing state constitutional law governing insurance taxation imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. Existing law governing the taxation of insurers allows as credits against the taxes imposed by those laws a low-income housing tax credit allocated by the California Tax Credit Allocation Committee, a College Access Tax Credit allocated and certified by the California Educational Facilities Authority, and a credit in an amount equal

to the amount of the gross premiums tax due from an insurer on account of pilot project insurance for previously uninsured motorists, as defined. Existing law allows any excess low-income housing tax credit and College Access Tax Credit to be carried over to reduce the tax in a succeeding year, as specified.

This bill would provide that for the years 2020, 2021, and 2022, the total amount of all those insurance tax credits otherwise allowable, including any credit amount allowed to be carried over, may not reduce the annual tax by more than $5,000,000 for a given year. The bill would provide that the amount of the College Access Tax Credit otherwise allowable that is not allowed due to the application of this bill will remain a credit carryover amount, and would also provide that the carryover period for any credit that is not allowed due to the application of this bill will be increased by the number of taxable years the credit or any portion thereof was not allowed. The bill would provide that this limitation does not apply to the low-income housing tax credit allocated by the California Tax Credit Allocation Committee.

The bill would provide that the amount of any credit of gross premiums tax due from an insurer on account of pilot project insurance for previously uninsured motorists otherwise allowable for a year that was not allowed due to the application of this bill may be carried over to reduce the annual tax in succeeding years if necessary, until the credit amount or any portion thereof that was not allowed is exhausted.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would provide that for each taxable year beginning on or before January 1, 2020, and before January 1, 2023, the total credits otherwise allowable under those laws, except as specified, for the taxable year may not reduce the taxes imposed by those laws by more than $5,000,000, as provided. The bill would provide that the amount of any credit otherwise allowable that is not allowed due to the application of this bill will remain a credit carryover amount. The bill would also provide that the carryover period for any credit that is not allowed due to the application of this bill will be increased by the number of taxable years the credit or any portion thereof was not allowed.

(4) The Personal Income Tax Law and the Corporation Tax Law allow motion picture credits for taxable years beginning on

or after January 1, 2016, to be allocated by the California Film Commission on or after July 1, 2015, and before July 1, 2020. Existing law, in the case where the credits allowed pursuant to these provisions exceed the tax liability of the taxpayer, allows a taxpayer to carryover the credit amount to reduce tax liability in the following 6 taxable years, until the credit has been exhausted.

This bill would, under both laws, extend the carryover period from 6 taxable years to 9 taxable years.

(5) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow various deductions in computing the income that is subject to the taxes imposed by those laws, including a deduction for a net operating loss, as specified.

This bill would, subject to certain exceptions related to a taxpayer's income, disallow, under both laws, a net operating loss deduction for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, and would extend the carryover period for a net operating loss deduction disallowed by that provision, as specified.

(6) The Corporation Tax Law imposes an annual minimum franchise tax of $800, except as provided, on every corporation incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state, and exempts a corporation that incorporates or qualifies to do business in this state from the payment of the minimum franchise tax in its first taxable year. Existing law imposes an annual tax in an amount equal to the minimum franchise tax on every limited partnership, limited liability partnership, and limited liability company doing business in this state, as specified.

This bill, for taxable years beginning on or after January 1, 2020, and before January 1, 2024, in which a specified appropriation is made in any budget measure, would exempt a limited partnership, a limited liability partnership, and limited liability company that files, registers, or organizes to do business in this state, as provided, from the payment of the annual tax in its first taxable year.

(7) The Corporation Tax Law, for taxable years beginning on or after January 1, 2016, and before January 1, 2030, allows, with regard to the manufacture of a new advanced strategic aircraft for the United States Air Force, a credit against the taxes imposed under that law for 17½% of qualified wages, as defined, paid or

incurred by the qualified taxpayer to qualified full-time employees, subject to specified limitations.

The Corporation Tax Law provides for an alternative minimum tax and provides that, except for specified credits, no credit shall reduce the regular tax, as defined, below the tentative minimum tax.

This bill, for taxable years beginning on or after January 1, 2020, and before January 1, 2026, would allow the above-described strategic aircraft credit to reduce the regular tax below the tentative minimum tax.

(8) Existing federal law, the Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms. PPACA generally requires an individual, and their dependents, to maintain minimum essential coverage, as defined, and, if an individual fails to maintain minimum essential coverage, PPACA imposes on the individual taxpayer a penalty. This provision is referred to as the individual mandate.

Existing law authorizes the California Health Benefit Exchange to provide advanced premium assistance subsidies to help Californians access affordable health care coverage. Existing law generally requires a responsible individual to enroll in and maintain minimum essential coverage for themselves, and their spouse or dependent, and imposes the Individual Shared Responsibility Penalty for the failure to maintain minimum essential coverage. Under existing law, the penalty amount is determined and collected by the Franchise Tax Board, based on the number of applicable household members who failed to enroll in and maintain minimum essential coverage. Existing law specifies an order of priority for debts if a debtor has more than one debt being collected by the Franchise Tax Board and the amount collected is insufficient to satisfy the total amount owed, with payment of the Individual Shared Responsibility Penalty and payment of advanced premium subsidies in excess of the allowed amount at the end of that order.

This bill would limit the maximum monthly penalty for a responsible individual with an applicable household size of 5 or more individuals to the maximum monthly penalty for a responsible individual with an applicable household size of 5 individuals. The bill would require the Franchise Tax Board to apply funds collected from a debtor toward payment of the Individual Shared Responsibility Penalty and overpaid advanced premium subsidies

as a first priority. The bill would also make additional clarifying changes.

(9) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of ⅔ of the membership of each house of the Legislature.

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

Appropriation: yes.

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

SECTION 1. Section 6295 is added to the Revenue and Taxation Code, to read:

6295. (a) When a vehicle required to be registered under the Vehicle Code is sold at retail by any dealer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code, the dealer shall pay the applicable sales tax to the Department of Motor Vehicles acting for and on behalf of the California Department of Tax and Fee Administration pursuant to Sections 4456 and 4750.6 of the Vehicle Code.

(b) If the dealer makes an application to the Department of Motor Vehicles that is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, the dealer shall also be liable for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the Department of Motor Vehicles by the dealer shall not relieve the dealer of the obligation to file a return with the California Department of Tax and Fee Administration under Section 6452. The dealer shall file a return as specified in Section 6453.

(d) If the dealer fails to make an application to the Department of Motor Vehicles, fails to pay the amount of sales tax due, or fails to timely file a return with the California Department of Tax and Fee Administration under Section 6452, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

(e) For purposes of this section, “dealer” shall not include a new motor vehicle dealer as defined by Section 426, a manufacturer or

remanufacturer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5, an automobile dismantler holding a license and certificate issued pursuant to Chapter 3 (commencing with Section 11500) of Division 5, or a lessor-retailer holding a license issued pursuant to Chapter 3.5 (commencing with Section 11600) of Division 5, and subject to the provisions of Section 11615.5.

(f) This section shall apply to sales of vehicles occurring on and after January 1, 2021.

SEC. 2. Section 6363.9 of the Revenue and Taxation Code is amended to read:

6363.9. (a) On and after January 1, 2020, there are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, diapers designed, manufactured, processed, fabricated, or packaged for use by infants, toddlers, and children.

(b) This section shall become inoperative on July 1, 2023.

SEC. 3. Section 6363.10 of the Revenue and Taxation Code is amended to read:

6363.10. (a) On and after January 1, 2020, there are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, menstrual hygiene products.

(b) For purposes of this section, "menstrual hygiene products" shall only include the following:

(1) Tampons.

(2) Sanitary napkins primarily designed and labeled for menstrual hygiene use.

(3) Menstrual sponges.

(4) Menstrual cups.

(c) This section shall become inoperative on July 1, 2023.

SEC. 4. Section 6902.5 of the Revenue and Taxation Code is amended to read:

6902.5. (a) For the purposes of this section:

(1) "Qualified taxpayer" means a person who is a qualified taxpayer within the meaning of paragraph (17) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695, or paragraph (19) of subdivision (b) of Section 17053.98 or 23698.

(2) "Affiliate" means a qualified taxpayer's affiliated corporation that has been assigned any portion of the credit amount by the

qualified taxpayer pursuant to subdivision (c) of Section 23685, subdivision (c) of Section 23695, or subdivision (c) of Section 23698.

(3) "Credit amount" means an amount equal to the tax credit amount that would otherwise be allowed to a qualified taxpayer pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698, but for the election made pursuant to this section.

(4) "Production period" means the production period as defined in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695 or in paragraph (14) of subdivision (b) of Section 17053.98 or 23698.

(5) (A) "Qualified sales and use taxes" means any state sales and use taxes imposed by Part 1 (commencing with Section 6001), on the operative date of the act adding this section.

(B) Notwithstanding subparagraph (A), "qualified sales and use taxes" does not mean taxes imposed by Section 6051.2, 6051.5, 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), or Section 35 of Article XIII of the California Constitution.

(b) (1) A qualified taxpayer may, in lieu of claiming the credit allowed by Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698, make an irrevocable election to apply the credit amount against qualified sales and use taxes imposed on the qualified taxpayer in accordance with this section.

(2) An affiliate may, in lieu of claiming the assigned portion of the credit allowed by Section 23685, 23695, or 23698, make an irrevocable election to apply the assigned portion of the credit amount against qualified sales and use taxes imposed on the affiliate in accordance with this section.

(c) (1) A qualified taxpayer or affiliate shall submit to the California Department of Tax and Fee Administration an irrevocable election, in a form as prescribed by the California Department of Tax and Fee Administration, which shall include, but not be limited to, the following information:

(A) Representation that the claimant is a qualified taxpayer or an affiliate.

(B) Statement of the dates on which the production period began and ended.

(C) The credit amount, and if an affiliate, the portion of the credit amount assigned to it and documentation supporting the assignment of that portion of the credit amount.

(D) The amount of qualified sales and use taxes the claimant remitted to the California Department of Tax and Fee Administration during the period commencing on the first day of the calendar quarter commencing immediately before the beginning of the production period, and ending on the date the claimant was required to file its most recent sales and use tax return with the California Department of Tax and Fee Administration.

(E) A copy of the credit certificate issued pursuant to subparagraph (C) of paragraph (2) of subdivision (g) of Section 17053.85 or 23685 or subparagraph (D) of paragraph (3) of subdivision (g) of Section 17053.95, 17053.98, 23695, or 23698.

(2) The election shall be filed on or before the date on which the qualified taxpayer or affiliate would first be allowed to claim a credit pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 on its tax return.

(3) (A) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, subdivision (d) and paragraph (1) of subdivision (e) shall only apply to those in-lieu credit amounts that do not exceed five million dollars ($5,000,000) for that taxable year.

(B) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, that are in excess of five million dollars ($5,000,000) for that taxable year, subdivision (f) shall apply.

(d) (1) The claimant may elect to obtain a refund of qualified sales and use taxes paid during the period described in subparagraph (D) of paragraph (1) of subdivision (c). If the claimant elects to obtain a refund of qualified sales and use taxes, the claimant shall file a claim for refund with the irrevocable election described in subdivision (c). The refund amount shall not

exceed, for a qualified taxpayer, the credit amount, or for an affiliate, the portion of the credit amount assigned to it.

(2) No interest shall be paid on any amount refunded or credited pursuant to paragraph (1).

(e) (1) If the claimant does not elect to obtain a refund or in the case where the credit amount, or assigned portion, exceeds the amount of its claim for refund for the qualified sales and use taxes, the claimant may, for the reporting periods in the five years following the last reporting period as described in subparagraph (D) of paragraph (1) of subdivision (c), offset any remaining credit amount, or assigned portion, against the qualified sales and use taxes imposed during those reporting periods.

(2) Notwithstanding paragraph (1), the total amount of refunds or credit offsets claimed under subdivision (d) and paragraph (1) of this subdivision in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for a taxable year beginning on or after January 1, 2020, and before January 1, 2023, shall not exceed five million dollars ($5,000,000).

(f) Notwithstanding subdivision (d) and paragraph (1) of subdivision (e), for those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, that are in excess of five million dollars ($5,000,000) for that taxable year, the claimant may offset that excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the five years following and including the reporting period beginning on and after January 1, 2024.

(g) Section 6961 shall apply to any refund, or part thereof, that is erroneously made and any credit, or part thereof, that is erroneously allowed pursuant to this section.

(h) The California Department of Tax and Fee Administration shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Department of Tax and Fee Administration and the Franchise Tax Board, of the qualified taxpayers, or affiliates that have been assigned a portion of the credit allowed under Section 23685 pursuant to subdivision (c) of Section 23685, Section 23695 pursuant to subdivision (c)

of Section 23695, or Section 23698 pursuant to subdivision (c) of Section 23698, who, during the year, have made an irrevocable election pursuant to this section and the credit amount, or portion of the credit amount, claimed by each qualified taxpayer or affiliate.

(i) The California Department of Tax and Fee Administration may prescribe rules and regulations for the administration of this section.

(j) The amendments made to this section by the act adding this subdivision shall not apply to irrevocable elections made before the operative date of the act adding this subdivision.

SEC. 5. Section 12209 is added to the Revenue and Taxation Code, to read:

12209. (a) Notwithstanding Sections 12207 and 12208 to the contrary, for the years 2020, 2021, and 2022, the total amount of all credits otherwise allowable under Sections 12207 and 12208, including any credit amount allowed to be carried over pursuant to those sections or subdivision (c), shall not reduce the "tax," as described by Section 12201, by more than five million dollars ($5,000,000) for a given year.

(b) (1) The amount of any credit otherwise allowable for a year under Section 12207 that is not allowed due to the application of this section shall remain a credit carryover amount under Section 12207.

(2) The carryover period for any credit allowable under Section 12207 that is not allowed due to the application of this section shall be increased by the number of years the credit or any portion thereof was not allowed.

(c) The amount of any credit otherwise allowable for a year under Section 12208 that was not allowed due to the application of this section may be carried over to reduce the "tax," as described by Section 12201, for the following year, and succeeding years if necessary, until the credit amount or any portion thereof that was not allowed due to the application of this section is exhausted. However, any credit amount under Section 12208 that is allowed to be carried over pursuant to this subdivision is also subject to the limitation in subdivision (a).

(d) The limitation under subdivision (a) shall not apply to the credit allowed by Section 12206 (relating to credit for low-income housing).

SEC. 6. Section 17039.3 is added to the Revenue and Taxation Code, to read:

17039.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2023, the total of all business credits otherwise allowable under any provision of Chapter 2 (commencing with Section 17041), including the carryover of any business credit under a former provision of that chapter, for the taxable year shall not reduce the "net tax," as defined in Section 17039, by more than five million dollars ($5,000,000).

(b) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers required to be included in a combined report under Section 25101 or 25110, or taxpayers authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2023, the total of all business credits otherwise allowable under any provision of Chapter 2 (commencing with Section 17041), including the carryover of any business credit under a former provision of that chapter, by all members of the combined report shall not reduce the aggregate amount of "tax," as defined in Section 23036, of all members of the combined report by more than five million dollars ($5,000,000).

(c) For purposes of this section, "business credit" means a credit allowable under any provision of Chapter 2 (commencing with Section 17041) other than the following credits:

(1) The credit allowed by Section 17052 (relating to credit for earned income).

(2) The credit allowed by Section 17052.1 (relating to credit for young child).

(3) The credit allowed by Section 17052.6 (relating to credit for household and dependent care).

(4) The credit allowed by Section 17052.25 (relating to credit for adoption costs).

(5) The credit allowed by Section 17053.5 (relating to renter's tax credit).

(6) The credit allowed by Section 17054 (relating to credit for personal exemption).

(7) The credit allowed by Section 17054.5 (relating to credit for qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(8) The credit allowed by Section 17054.7 (relating to credit for qualified senior head of household).

(9) The credit allowed by Section 17058 (relating to credit for low-income housing).

(10) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(d) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 against qualified sales and use tax, as defined in Section 6902.5, are not included in the five-million-dollar ($5,000,000) limitation set forth in subdivision (a) or (b).

(e) The amount of any credit otherwise allowable for the taxable year under Section 17039 that is not allowed due to application of this section shall remain a credit carryover amount under this part.

(f) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

(g) Notwithstanding anything to the contrary in this part or Part 10.2 (commencing with Section 18401), the credits listed in subdivision (c) shall be applied after any business credits, as limited by subdivision (a) or (b), are applied.

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

SEC. 7. Section 17053.95 of the Revenue and Taxation Code is amended to read:

17053.95. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount equal to 20 percent or 25 percent,

whichever is the applicable credit percentage described in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 17053.85.

(2) Except as otherwise provided in this section, the credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable credit percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars ($100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 17053.85.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.

(C) Twenty-five percent of the qualified expenditures, up to ten million dollars ($10,000,000), attributable to the production of a qualified motion picture that is an independent film.

(D) Additional credits shall be allowed to a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A), in an aggregate amount not to exceed 5 percent of the qualified expenditures under that subparagraph, as follows:

(i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.

(II) For purposes of this clause:

(ia) "Applicable period" means the period that commences with preproduction and ends when original photography concludes. The applicable period includes the time necessary to strike a remote location and return to the Los Angeles zone.

(ib) "Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Lake Castaic, Leo Carrillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.

(ic) "Original photography" includes principal photography and reshooting original footage.

(id) "Qualified expenditures relating to original photography outside the Los Angeles zone" means amounts paid or incurred during the applicable period for tangible personal property purchased or leased and used or consumed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone and qualified wages paid for services performed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone.

(ii) Five percent of the qualified expenditures relating to music scoring and music track recording by musicians attributable to the production of a qualified motion picture in California.

(iii) Five percent of the qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.

(b) For purposes of this section:

(1) "Ancillary product" means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

(2) "Budget" means an estimate of all expenses paid or incurred during the production period of a qualified motion picture. It shall be the same budget used by the qualified taxpayer and production company for all qualified motion picture purposes.

(3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph (C) of paragraph (3) of subdivision (g).

(5) (A) "Employee fringe benefits" means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:

(i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.

(ii) Employer-provided coverage under any accident or health plan for employees.

(iii) The employer's cost of life or disability insurance provided to employees.

(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (21) shall not be taken into account under this paragraph.

(6) "Independent film" means a motion picture with a minimum budget of one million dollars ($1,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) "Jobs ratio" means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit, not including any additional credit allowed pursuant to subparagraph (D) of paragraph (4) of subdivision (a), as computed by the California Film Commission.

(8) "Licensing" means any grant of rights to distribute the qualified motion picture, in whole or in part.

(9) "New use" means any use of a motion picture in a medium other than the medium for which it was initially created.

(10) "Pilot for a new television series" means the initial episode produced for a proposed television series.

(11) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring, music track recording by musicians and music editing, beginning

and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, sound mixing, film-to-tape transfers, encoding, and color correction.

(B) "Postproduction" does not include the manufacture or shipping of release prints or their equivalent.

(12) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes, but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.

(13) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.

(14) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.

(15) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.

(16) "Qualified expenditures" means amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.

(17) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.

(B) "Qualified individual" shall not include either of the following:

(i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.

(ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.

(18) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

(i) A feature with a minimum production budget of one million dollars ($1,000,000).

(ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars ($500,000).

(iii) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of one million dollars ($1,000,000) per episode.

(iv) An independent film.

(v) A television series that relocated to California.

(vi) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of one million dollars ($1,000,000).

(B) To qualify as a "qualified motion picture," all of the following conditions shall be satisfied:

(i) At least 75 percent of the principal photography days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.

(ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer's application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is "completed" when the process of postproduction has been finished.

(iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.

(iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval unless death, disability, or disfigurement of the director or of a principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane, or other natural disaster, terrorist activities, or government sanction has directly prevented a production's ability to begin principal photography within the prescribed 180-day commencement period.

(C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified

motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.

(D) "Qualified motion picture" shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.

(19) (A) "Qualified taxpayer" means a taxpayer who has paid or incurred qualified expenditures, participated in the Career Readiness requirement, and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "pass-thru entity" means any entity taxed as a partnership or "S" corporation.

(20) "Qualified visual effects" means visual effects where at least 75 percent or a minimum of ten million dollars ($10,000,000) of the qualified expenditures for the visual effects is paid or incurred in California.

(21) (A) "Qualified wages" means all of the following:

(i) Any wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within this state.

(ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clauses (i), (iii), and (iv).

(iii) Any payments made to a qualified entity for services performed in this state by qualified individuals within the meaning of paragraph (17).

(iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.

(B) "Qualified wages" shall not include any of the following:

(i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.

(ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.

(iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.

(iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.

(22) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

(23) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.

(24) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.

(25) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars ($1,000,000) per episode, that filmed its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that the credit provided

pursuant to this section is the primary reason for relocating to California.

(26) "Visual effects" means the creation, alteration, or enhancement of images that cannot be captured on a set or location during live action photography and therefore is accomplished in postproduction. It includes, but is not limited to, matte paintings, animation, set extensions, computer-generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.

(c) (1) Notwithstanding any other law, a qualified taxpayer may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.

(2) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(3) In the case where the credit allowed under this section exceeds the "net tax," the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding eight taxable years, if necessary, until the credit has been exhausted.

(4) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(5) A party that has acquired tax credits under this subdivision shall be subject to the requirements of this section.

(6) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(7) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may

disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

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

(9) Subdivision (g) of Section 17039 shall not apply to any credit sold pursuant to this subdivision.

(10) For purposes of this subdivision, the unrelated party or parties that purchase a credit pursuant to this subdivision shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

(d) (1) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:

(A) Identification of each qualified individual.

(B) The specific start and end dates of production.

(C) The total wages paid.

(D) The total amount of qualified wages paid to qualified individuals.

(E) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.

(F) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.

(G) Information to substantiate its qualified expenditures.

(H) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.

(I) Provides documentation verifying completion of the Career Readiness requirement.

(2) (A) Based on the information provided in paragraph (1), the California Film Commission shall recompute the jobs ratio previously computed in subdivision (g) and compare this recomputed jobs ratio to the jobs ratio that the qualified taxpayer

previously listed on the application submitted pursuant to subdivision (g).

(B) (i) If the California Film Commission determines that the jobs ratio has been reduced by more than 10 percent for a qualified motion picture other than an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(ii) If the California Film Commission determines that the jobs ratio has been reduced by more than 20 percent for a qualified motion picture other than an independent film, the California Film Commission shall not accept an application described in subdivision (g) from that qualified taxpayer or any member of the qualified taxpayer's controlled group for a period of not less than one year from the date of that determination, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(C) If the California Film Commission determines that the jobs ratio has been reduced by more than 30 percent for an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, plus 10 percent of the amount of credit that would otherwise have been allowed, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(D) For the purposes of this paragraph, "reasonable cause" means unforeseen circumstances beyond the control of the qualified taxpayer, such as, but not limited to, the cancellation of a television series prior to the completion of the scheduled number of episodes or other similar circumstances as determined by the California Film Commission in regulations to be adopted pursuant to subdivision (e).

(e) (1) (A) Subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the California Film Commission shall adopt rules and regulations to implement a Career Readiness requirement by which the California Film Commission shall identify training and public service opportunities that may include, but not be limited to, hiring interns, public service

announcements, and community outreach and may prescribe rules and regulations to carry out the purposes of this section, including, subparagraph (D) of paragraph (4) of subdivision (a) and clause (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and including any rules and regulations necessary to establish procedures, processes, requirements, application fee structure, and rules identified in or required to implement this section, including credit and logo requirements and credit allocation procedures over multiple fiscal years where the qualified taxpayer is producing a series of features that will be filmed concurrently.

(B) Notwithstanding any other law, prior to preparing a notice of proposed action pursuant to Section 11346.4 of the Government Code and prior to making any revision to the proposed regulation other than a change that is nonsubstantial or solely grammatical in nature, the Governor's Office of Business and Economic Development shall first approve the proposed regulation or proposed change to a proposed regulation regarding allocating the credit pursuant to subdivision (i), computing the jobs ratio as described in subdivisions (d) and (g), and defining "reasonable cause" pursuant to subparagraph (E) of paragraph (2) of subdivision (d).

(2) (A) Implementation of this section for the 2015–16 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 California Film Commission is hereby authorized to adopt emergency regulations to implement this section during the 2015–16 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 paragraph shall be construed to require the Governor's Office of Business and Economic Development to approve emergency regulations adopted pursuant to this paragraph.

(3) The California Film Commission shall not be required to prepare an economic impact analysis pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) with regard to any rules and regulations adopted pursuant to this subdivision.

(f) If the qualified taxpayer fails to provide the copyright registration number as required in subparagraph (E) of paragraph

(1) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.

(2) On or after July 1, 2016, and before July 1, 2020, in two or more allocation periods per fiscal year, allocate tax credits to applicants.

(A) Establish a procedure for applicants to file with the California Film Commission a written application, on a form jointly prescribed by the California Film Commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:

(i) The budget for the motion picture production.

(ii) The number of production days.

(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) All members of a combined reporting group, if known at the time of the application.

(vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to

this clause shall be confidential and shall not be subject to public disclosure.

(viii) The amount of qualified wages the applicant expects to pay to qualified individuals.

(ix) The amount of tax credit the applicant computes the qualified motion picture will receive, applying the applicable credit percentages described in paragraph (4) of subdivision (a).

(x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.

(xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.

(B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.

(C) Determine and designate applicants who meet the requirements of this section.

(D) (i) For purposes of allocating the credit amounts subject to the categories described in subdivision (i) in any fiscal year, the California Film Commission shall do all of the following:

(ii) For each allocation date and for each category, list each applicant from highest to lowest according to the jobs ratio as computed by the California Film Commission.

(iii) Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted.

(iv) Pursuant to regulations adopted pursuant to subdivision (e), the California Film Commission may increase the jobs ratio by up to 25 percent if a qualified motion picture increases economic activity in California according to criteria developed by the California Film Commission that would include, but not be limited to, such factors as, the amount of the production and postproduction spending in California, the utilization of production facilities in California, and other criteria measuring economic impact in California as determined by the California Film Commission.

(v) Notwithstanding any other provision, any television series, relocating television series, or any new television series based on a pilot for a new television series that has been approved and issued a credit allocation by the California Film Commission under this section, Section 23695, 17053.85, or 23685 shall be issued a credit for each subsequent year, for the life of that television series whenever credits are allocated within a fiscal year.

(E) Subject to the annual cap and the allocation credit amounts based on categories described in subdivision (i), allocate an aggregate amount of credits under this section and Section 23695, and allocate any carryover of unallocated credits from prior years and the amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(3) Certify tax credits allocated to qualified taxpayers.

(A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant, including, but not limited to, updates to the information in subparagraph (A) of paragraph (2) of subdivision (g).

(B) Establish audit requirements that must be satisfied before a credit certificate may be issued by the California Film Commission.

(C) (i) Establish a procedure for a qualified taxpayer to report to the California Film Commission, prior to the issuance of a credit certificate, the following information:

(I) If readily available, a list of the states, provinces, or other jurisdictions in which any member of the applicant's combined reporting group in the same business unit as the qualified taxpayer that, in the preceding calendar year, has produced a qualified motion picture intended for release in the United States market. For purposes of this clause, "qualified motion picture" shall not include any episodes of a television series that were complete or in production prior to July 1, 2016.

(II) Whether a qualified motion picture described in subclause (I) was awarded any financial incentive by the state, province, or other jurisdiction that was predicated on the performance of primary principal photography or postproduction in that location.

(ii) The California Film Commission may provide that the report required by this subparagraph be filed in a single report provided on a calendar year basis for those qualified taxpayers that receive multiple credit certificates in a calendar year.

(D) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture reflecting the credit amount allocated after qualified expenditures have been verified and the jobs ratio computed under this section. The amount of credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.

(4) Obtain, when possible, the following information from applicants that do not receive an allocation of credit:

(A) Whether the qualified motion picture that was the subject of the application was completed.

(B) If completed, in which state or foreign jurisdiction was the primary principal photography completed.

(C) Whether the applicant received any financial incentives from the state or foreign jurisdiction to make the qualified motion picture in that location.

(5) Provide the Legislative Analyst's Office, upon request, any or all application materials or any other materials received from, or submitted by, the applicants, in electronic format when available, including, but not limited to, information provided pursuant to clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

(6) The information provided to the California Film Commission pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2.

(h) (1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the board with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

(2) (A) Notwithstanding paragraph (6) of subdivision (g), the California Film Commission shall annually post on its internet website and make available for public release the following:

(i) A table which includes all of the following information: a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission, the number of production days in California the qualified taxpayer represented in its application would occur, the number of California

jobs that the qualified taxpayer represented in its application would be directly created by the production, and the total amount of qualified expenditures expected to be spent by the production.

(ii) A narrative staff summary describing the production of the qualified taxpayer as well as background information regarding the qualified taxpayer contained in the qualified taxpayer's application for the credit.

(B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a tax credit under this section a public record.

(3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its internet website a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.

(i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 23695 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):

(i) Two hundred thirty million dollars ($230,000,000) in credits for the 2015–16 fiscal year.

(ii) Three hundred thirty million dollars ($330,000,000) in credits for the 2016–17 fiscal year and each fiscal year thereafter, through and including the 2019–20 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:

(i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).

(ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).

(iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).

(iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).

(B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated to another category or categories with a higher demand as determined by the California Film Commission.

(C) Notwithstanding the foregoing, the California Film Commission may increase or decrease an allocation amount in subparagraph (A) by 5 percent, if necessary, due to the jobs ratio, the number of applications, or the allocation credit amounts available by category compared to demand.

(D) With respect to a relocating television series issued a credit in a subsequent year pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), that subsequent credit amount shall be allowed from the allocation amount described in clause (iv) of subparagraph (A).

(3) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.

(j) The California Film Commission shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.

SEC. 8. Section 17276.23 is added to the Revenue and Taxation Code, to read:

17276.23. (a) Notwithstanding Sections 17276, 17276.1, 17276.4, 17276.7, and 17276.22, former Sections 17276.2, 17276.5, 17276.6, and 17276.20, and Section 172 of the Internal Revenue Code, a net operating loss deduction shall not be allowed

for any taxable year beginning on or after January 1, 2020, and before January 1, 2023.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2020, and before January 1, 2021.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2020.

(c) This section shall not apply as follows:

(1) For a taxable year beginning on or after January 1, 2020, and before January 1, 2023, this section shall not apply to a taxpayer with a net business income of less than one million dollars ($1,000,000) for the taxable year.

(2) For a taxable year beginning on or after January 1, 2020, and before January 1, 2023, this section shall not apply to a taxpayer with a modified adjusted gross income of less than one million dollars ($1,000,000) for the taxable year.

(d) For purposes of this section:

(1) "Business income" means any of the following:

(A) Income from a trade or business, whether conducted by the taxpayer or by a passthrough entity owned directly or indirectly by the taxpayer.

(B) Income from rental activity.

(C) Income attributable to a farming business.

(2) "Modified adjusted gross income" means the amount described in paragraph (2) of subdivision (h) of Section 17024.5, determined without regard to the deduction allowed under Section 172 of the Internal Revenue Code, relating to net operating loss deduction.

(3) "Passthrough entity" means a partnership or an S corporation.

SEC. 9. Section 17935 of the Revenue and Taxation Code is amended to read:

17935. (a) Except as provided in subdivision (f), for each taxable year beginning on or after January 1, 1997, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 18633 shall pay

annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153.

(b) (1) In addition to any limited partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 or 15902.01 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 or 15909.01 of the Corporations Code, shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation is filed on behalf of the limited partnership with the office of the Secretary of State pursuant to Section 15623, 15696, 15902.03, or 15909.07 of the Corporations Code.

(2) If a taxpayer files a return with the Franchise Tax Board that is designated its final return, that board shall notify the taxpayer that the tax imposed by this chapter is due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 15623, 15696, 15902.03, or 15909.07 of the Corporations Code.

(c) The tax imposed by this chapter shall be due and payable on the date the return is required to be filed under former Section 18432 or 18633.

(d) For purposes of this section, "limited partnership" means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.

(e) Notwithstanding subdivision (b), any limited partnership that ceased doing business prior to January 1, 1997, filed a final return with the Franchise Tax Board for a taxable year ending before January 1, 1997, and filed a certificate of dissolution with the Secretary of State pursuant to Section 15623 of the Corporations Code prior to January 1, 1997, shall not be subject to the tax imposed by this chapter for any period following the date the certificate of dissolution was filed with the Secretary of State, but only if the limited partnership files a certificate of cancellation with the Secretary of State pursuant to Section 15623

of the Corporations Code. In the case where a notice of proposed deficiency assessment of tax or a notice of tax due (whichever is applicable) is mailed after January 1, 2001, the first sentence of this subdivision shall not apply unless the certificate of cancellation is filed with the Secretary of State not later than 60 days after the date of the mailing of the notice.

(f) (1) Every limited partnership doing business in this state as described in subdivision (a) that files a certificate of limited partnership or registers with the Secretary of the State pursuant to subdivision (b) on or after January 1, 2021, and before January 1, 2024, shall not be subject to the tax imposed under this section for its first taxable year.

(2) This subdivision shall become operative only for a taxable year in which any budget measure appropriates one dollar ($1) or more to the Franchise Tax Board for the costs associated with administration of this subdivision.

SEC. 10. Section 17941 of the Revenue and Taxation Code is amended to read:

17941. (a) Except as provided in subdivision (g), for each taxable year beginning on or after January 1, 1997, a limited liability company doing business in this state (as defined in Section 23101) shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in subdivision (d) of Section 23153 for the taxable year.

(b) (1) In addition to any limited liability company that is doing business in this state and is therefore subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, a limited liability company shall pay annually the tax prescribed in subdivision (a) if articles of organization have been accepted, or a certificate of registration has been issued, by the office of the Secretary of State. The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation of registration or of articles of organization is filed on behalf of the limited liability company with the office of the Secretary of State.

(2) If a taxpayer files a return with the Franchise Tax Board that is designated as its final return, the Franchise Tax Board shall notify the taxpayer that the annual tax shall continue to be due annually until a certificate of dissolution is filed with the Secretary of State pursuant to Section 17707.08 of the Corporations Code

or a certificate of cancellation is filed with the Secretary of State pursuant to Section 17708.06 of the Corporations Code.

(c) The tax assessed under this section shall be due and payable on or before the 15th day of the fourth month of the taxable year.

(d) For purposes of this section, "limited liability company" means an organization, other than a limited liability company that is exempt from the tax and fees imposed under this chapter pursuant to Section 23701h or Section 23701x, that is formed by one or more persons under the law of this state, any other country, or any other state, as a "limited liability company" and that is not taxable as a corporation for California tax purposes.

(e) Notwithstanding anything in this section to the contrary, if the office of the Secretary of State files a certificate of cancellation pursuant to Section 17707.02 of the Corporations Code for any limited liability company, then paragraph (1) of subdivision (f) of Section 23153 shall apply to that limited liability company as if the limited liability company were properly treated as a corporation for that limited purpose only, and paragraph (2) of subdivision (f) of Section 23153 shall not apply. Nothing in this subdivision entitles a limited liability company to receive a reimbursement for any annual taxes or fees already paid.

(f) (1) Notwithstanding any provision of this section to the contrary, for taxable years beginning on or after January 1, 2020, a limited liability company that is a small business solely owned by a deployed member of the United States Armed Forces shall not be subject to the tax imposed under this section for any taxable year the owner is deployed and the limited liability company operates at a loss or ceases operation.

(2) The Franchise Tax Board may promulgate regulations as necessary or appropriate to carry out the purposes of this subdivision, including a definition for "ceases operation."

(3) For the purposes of this subdivision, all of the following definitions apply:

(A) "Deployed" means being called to active duty or active service during a period when a Presidential Executive order specifies that the United States is engaged in combat or homeland defense. "Deployed" does not include either of the following:

(i) Temporary duty for the sole purpose of training or processing.

(ii) A permanent change of station.

(B) "Operates at a loss" means a limited liability company's expenses exceed its receipts.

(C) "Small business" means a limited liability company with total income from all sources derived from, or attributable to, the state of two hundred fifty thousand dollars ($250,000) or less.

(4) This subdivision shall become inoperative for taxable years beginning on or after January 1, 2030.

(g) (1) Every limited liability company doing business in this state as described in subdivision (a) that organizes or registers with the Secretary of the State pursuant to subdivision (b) on or after January 1, 2021, and before January 1, 2024, shall not be subject to the tax imposed under this section for its first taxable year.

(2) This subdivision shall become operative only for a taxable year in which any budget measure appropriates one dollar ($1) or more to the Franchise Tax Board for the costs associated with administration of this subdivision.

SEC. 11. Section 17948 of the Revenue and Taxation Code is amended to read:

17948. (a) Except as provided in subdivision (e), for each taxable year beginning on or after January 1, 1997, every limited liability partnership doing business in this state (as defined in Section 23101) and required to file a return under Section 18633 shall pay annually to the Franchise Tax Board a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in paragraph (1) of subdivision (d) of Section 23153 for the taxable year.

(b) In addition to any limited liability partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every registered limited liability partnership that has registered with the Secretary of State pursuant to Section 16953 of the Corporations Code and every foreign limited liability partnership that has registered with the Secretary of State pursuant to Section 16959 of the Corporations Code shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until any of the following occurs:

(1) A notice of cessation is filed with the Secretary of State pursuant to subdivision (b) of Section 16954 or 16960 of the Corporations Code.

(2) A foreign limited liability partnership withdraws its registration pursuant to subdivision (a) of Section 16960 of the Corporations Code.

(3) The registered limited liability partnership or foreign limited liability partnership has been dissolved and finally wound up.

(c) The tax assessed under this section shall be due and payable on the date the return is required to be filed under Section 18633.

(d) If a taxpayer files a return with the Franchise Tax Board that is designated as its final return, the Franchise Tax Board shall notify the taxpayer that the annual tax shall continue to be due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 16954 or 16960 of the Corporations Code.

(e) (1) Every limited liability partnership doing business in this state as described in subdivision (a) that registers with the Secretary of the State pursuant to subdivision (b) on or after January 1, 2021, and before January 1, 2024, shall not be subject to the tax imposed under this section for its first taxable year.

(2) This subdivision shall become operative only for a taxable year in which any budget measure appropriates one dollar ($1) or more to the Franchise Tax Board for the costs associated with administration of this subdivision.

SEC. 12. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. (a) In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(1) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), Part 32 (commencing with Section 61000), or this part, amounts authorized to be collected under Section 19722 of this code, or payment of advanced premium subsides in excess of the amount allowed under Title 25 (commencing with Section 100800) of the Government Code.

(2) Payment of delinquencies collected under Section 10878.

(3) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(4) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.

(b) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 13. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on "S" corporations imposed under Section 23802.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" also includes all of the following:

(1) The tax on limited partnerships, imposed under Section 17935, the tax on limited liability companies, imposed under Section 17941, and the tax on registered limited liability partnerships and foreign limited liability partnerships imposed under Section 17948.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of "S" corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of "S" corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits are allowed against the "tax" in the following order:

(1) Credits that do not contain carryover provisions.

(2) Credits that, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years, except for those credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455.

(5) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following applies:

(1) A credit may not reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits:

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by former Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by former Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by former Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.2 (relating to enterprise zone sales or use tax credit).

(I) The credit allowed by former Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(J) The credit allowed by former Section 23622 (relating to enterprise zone hiring credit).

(K) The credit allowed by Section 23622.7 (relating to enterprise zone hiring credit).

(L) The credit allowed by former Section 23623 (relating to program area hiring credit).

(M) The credit allowed by former Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(N) The credit allowed by former Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(O) The credit allowed by Section 23633 (relating to targeted tax area sales or use tax credit).

(P) The credit allowed by Section 23634 (relating to targeted tax area hiring credit).

(Q) The credit allowed by former Section 23649 (relating to qualified property).

(R) For taxable years beginning on or after January 1, 2011, the credit allowed by Section 23685 (relating to qualified motion pictures).

(S) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 23689 (relating to GO-Biz California Competes Credit).

(T) For taxable years beginning on or after January 1, 2016, the credit allowed by Section 23695 (relating to qualified motion pictures).

(U) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 23686 (relating to the College Access Tax Credit Fund).

(V) For taxable years beginning on or after January 1, 2017, the credit allowed by Section 23687 (relating to the College Access Tax Credit Fund).

(W) For taxable years beginning on or after January 1, 2020, and before January 1, 2026, the credit allowed by Section 23636 (relating to the new advanced strategic aircraft credit).

(2) A credit against the tax may not reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) is allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative is allowed to be

carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer is eligible to receive the tax credit in proportion to their respective share of the costs paid or incurred.

(h) Unless otherwise provided, in the case of an "S" corporation, any credit allowed by this part is computed at the "S" corporation level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit applies to the "S" corporation and to each shareholder.

(i) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity is limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "tax," as defined in subdivision (a), for the taxable year is limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 23455), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to that disregarded business entity. A credit is not allowed if the taxpayer's regular tax (as defined in Section 23455), determined by including the income attributable to the disregarded business entity is less than the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (d), (e), and (f).

(j) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-thru entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after

the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 14. Section 23036.3 is added to the Revenue and Taxation Code, to read:

23036.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, except as provided in subdivision (d), for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2023, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604) including the carryover of any credit under a former provision of that chapter, for the taxable year shall not reduce the "tax," as defined in Section 23036, by more than five million dollars ($5,000,000).

(b) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, except as provided in subdivision (d), for taxpayers required to be included in a combined report under Section 25101 or 25110, or taxpayers authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2023, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604), including the carryover of any credit under a former provision of that chapter, by all members of the combined report shall not reduce the aggregate amount of "tax," as defined in Section 23036, of all members of the combined report by more than five-million-dollars ($5,000,000).

(c) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or

23698 against qualified sales and use tax, as defined in Section 6902.5, are not included in the five million dollar ($5,000,000) limitation set forth in subdivision (a) or (b).

(d) The limitation under subdivision (a) or (b) shall not apply to the credit allowed by Section 23610.5 (relating to credit for low-income housing).

(e) The amount of any credit otherwise allowable for the taxable year under Section 23036 that is not allowed due to the application of this section shall remain a credit carryover amount under this part.

(f) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

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

SEC. 15. Section 23695 of the Revenue and Taxation Code is amended to read:

23695. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount equal to 20 percent or 25 percent, whichever is the applicable credit percentage described in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 23685.

(2) Except as otherwise provided in this section, the credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable credit percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California, including, but not limited to, a feature, up to one hundred million dollars ($100,000,000) in qualified expenditures, or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation pursuant to this section or Section 23685.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section.

(C) Twenty-five percent of the qualified expenditures, up to ten million dollars ($10,000,000), attributable to the production of a qualified motion picture that is an independent film.

(D) Additional credits shall be allowed to a qualified motion picture whose applicable credit percentage is determined pursuant to subparagraph (A), in an aggregate amount not to exceed 5 percent of the qualified expenditures under that subparagraph, as follows:

(i) (I) Five percent of qualified expenditures relating to original photography outside the Los Angeles zone.

(II) For purposes of this clause:

(ia) "Applicable period" means the period that commences with preproduction and ends when original photography concludes. The applicable period includes the time necessary to strike a remote location and return to the Los Angeles zone.

(ib) "Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Lake Castaic, Leo Carrillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.

(ic) "Original photography" includes principal photography and reshooting original footage.

(id) "Qualified expenditures relating to original photography outside the Los Angeles zone" means amounts paid or incurred during the applicable period for tangible personal property purchased or leased and used or consumed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone and qualified wages paid for services performed outside the Los Angeles zone and relating to original photography outside the Los Angeles zone.

(ii) Five percent of the qualified expenditures relating to music scoring and music track recording by musicians attributable to the production of a qualified motion picture in California.

(iii) Five percent of the qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.

(b) For purposes of this section:

(1) "Ancillary product" means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

(2) "Budget" means an estimate of all expenses paid or incurred during the production period of a qualified motion picture. It shall be the same budget used by the qualified taxpayer and production company for all qualified motion picture purposes.

(3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph (C) of paragraph (3) of subdivision (g).

(5) (A) "Employee fringe benefits" means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:

(i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.

(ii) Employer-provided coverage under any accident or health plan for employees.

(iii) The employer's cost of life or disability insurance provided to employees.

(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (21) shall not be taken into account under this paragraph.

(6) "Independent film" means a motion picture with a minimum budget of one million dollars ($1,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) "Jobs ratio" means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit, not including any additional credit allowed pursuant to subparagraph (D) of paragraph (4) of subdivision (a), as computed by the California Film Commission.

(8) "Licensing" means any grant of rights to distribute the qualified motion picture, in whole or in part.

(9) "New use" means any use of a motion picture in a medium other than the medium for which it was initially created.

(10) "Pilot for a new television series" means the initial episode produced for a proposed television series.

(11) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring, music track recording by musicians and music editing, beginning and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, sound mixing, film-to-tape transfers, encoding, and color correction.

(B) "Postproduction" does not include the manufacture or shipping of release prints or their equivalent.

(12) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes, but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.

(13) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.

(14) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.

(15) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.

(16) "Qualified expenditures" means amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.

(17) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.

(B) "Qualified individual" shall not include either of the following:

(i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.

(ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.

(18) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

(i) A feature with a minimum production budget of one million dollars ($1,000,000).

(ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars ($500,000).

(iii) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of one million dollars ($1,000,000) per episode.

(iv) An independent film.

(v) A television series that relocated to California.

(vi) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of one million dollars ($1,000,000).

(B) To qualify as a "qualified motion picture," all of the following conditions shall be satisfied:

(i) At least 75 percent of the principal photography days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.

(ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer's application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is "completed" when the process of postproduction has been finished.

(iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.

(iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval unless death, disability, or disfigurement of the director or of a principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane, or other natural disaster, terrorist activities, or government sanction has directly prevented a production's ability to begin principal photography within the prescribed 180-day commencement period.

(C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.

(D) "Qualified motion picture" shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.

(19) (A) "Qualified taxpayer" means a taxpayer who has paid or incurred qualified expenditures, participated in the Career Readiness requirement, and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).

(B) (i) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "pass-thru entity" means any entity taxed as a partnership or "S" corporation.

(ii) In the case of an "S" corporation, the credit allowed under this section shall not be used by an "S" corporation as a credit against a tax imposed under Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2.

(20) "Qualified visual effects" means visual effects where at least 75 percent or a minimum of ten million dollars ($10,000,000) of the qualified expenditures for the visual effects is paid or incurred in California.

(21) (A) "Qualified wages" means all of the following:

(i) Any wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within this state.

(ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clauses (i), (iii), and (iv).

(iii) Any payments made to a qualified entity for services performed in this state by qualified individuals within the meaning of paragraph (17).

(iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.

(B) "Qualified wages" shall not include any of the following:

(i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.

(ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.

(iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.

(iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.

(22) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

(23) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.

(24) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.

(25) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars ($1,000,000) per episode, that filmed its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that the credit provided pursuant to this section is the primary reason for relocating to California.

(26) "Visual effects" means the creation, alteration, or enhancement of images that cannot be captured on a set or location during live action photography and therefore is accomplished in postproduction. It includes, but is not limited to, matte paintings, animation, set extensions, computer-generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.

(c) (1) Notwithstanding subdivision (i) of Section 23036, in the case where the credit allowed by this section exceeds the taxpayer's tax liability computed under this part, a qualified taxpayer may elect to assign any portion of the credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, and "voting common stock" is substituted for "voting stock" wherever it appears in the section.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the qualified taxpayer that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the qualified taxpayer and the qualified taxpayer's affiliated corporations that assign and receive the credits.

(D) Shall be reported to the Franchise Tax Board, in the form and manner specified by the Franchise Tax Board, along with all required information regarding the assignment of the credit, including the corporation number, the federal employer identification number, or other taxpayer identification number of the assignee, and the amount of the credit assigned.

(3) (A) Notwithstanding any other law, a qualified taxpayer may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.

(B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(4) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding eight taxable years, if necessary, until the credit has been exhausted.

(5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(6) A party that has been assigned or acquired tax credits under this subdivision shall be subject to the requirements of this section.

(7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

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

(10) Subdivision (i) of Section 23036 shall not apply to any credit sold pursuant to this subdivision.

(11) For purposes of this subdivision:

(A) An affiliated corporation or corporations that are assigned a credit pursuant to paragraph (1) shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

(B) The unrelated party or parties that purchase a credit pursuant to paragraphs (3) to (10), inclusive, shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

(d) (1) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:

(A) Identification of each qualified individual.

(B) The specific start and end dates of production.

(C) The total wages paid.

(D) The total amount of qualified wages paid to qualified individuals.

(E) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.

(F) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.

(G) Information to substantiate its qualified expenditures.

(H) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.

(I) Provides documentation verifying completion of the Career Readiness requirement.

(2) (A) Based on the information provided in paragraph (1), the California Film Commission shall recompute the jobs ratio previously computed in subdivision (g) and compare this recomputed jobs ratio to the jobs ratio that the qualified taxpayer previously listed on the application submitted pursuant to subdivision (g).

(B) (i) If the California Film Commission determines that the jobs ratio has been reduced by more than 10 percent for a qualified motion picture other than an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(ii) If the California Film Commission determines that the jobs ratio has been reduced by more than 20 percent for a qualified motion picture other than an independent film, the California Film Commission shall not accept an application described in subdivision (g) from that qualified taxpayer or any member of the qualified taxpayer's controlled group for a period of not less than one year from the date of that determination, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(C) If the California Film Commission determines that the jobs ratio has been reduced by more than 30 percent for an independent film, the California Film Commission shall reduce the amount of credit allowed by an equal percentage, plus 10 percent of the

amount of credit that would otherwise have been allowed, unless the qualified taxpayer demonstrates, and the California Film Commission determines, that reasonable cause exists for the jobs ratio reduction.

(D) For the purposes of this paragraph, "reasonable cause" means unforeseen circumstances beyond the control of the qualified taxpayer, such as, but not limited to, the cancellation of a television series prior to the completion of the scheduled number of episodes or other similar circumstances as determined by the California Film Commission in regulations to be adopted pursuant to subdivision (e).

(e) (1) (A) Subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the California Film Commission shall adopt rules and regulations to implement a Career Readiness requirement by which the California Film Commission shall identify training and public service opportunities that may include, but not be limited to, hiring interns, public service announcements, and community outreach and may prescribe rules and regulations to carry out the purposes of this section, including, subparagraph (D) of paragraph (4) of subdivision (a) and clause (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and including any rules and regulations necessary to establish procedures, processes, requirements, application fee structure, and rules identified in or required to implement this section, including credit and logo requirements and credit allocation procedures over multiple fiscal years where the qualified taxpayer is producing a series of features that will be filmed concurrently.

(B) Notwithstanding any other law, prior to preparing a notice of proposed action pursuant to Section 11346.4 of the Government Code and prior to making any revision to the proposed regulation other than a change that is nonsubstantial or solely grammatical in nature, the Governor's Office of Business and Economic Development shall first approve the proposed regulation or proposed change to a proposed regulation regarding allocating the credit pursuant to subdivision (i), computing the jobs ratio as described in subdivisions (d) and (g), and defining "reasonable cause" pursuant to subparagraph (E) of paragraph (2) of subdivision (d).

(2) (A) Implementation of this section for the 2015–16 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 California Film Commission is hereby authorized to adopt emergency regulations to implement this section during the 2015–16 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 paragraph shall be construed to require the Governor's Office of Business and Economic Development to approve emergency regulations adopted pursuant to this paragraph.

(3) The California Film Commission shall not be required to prepare an economic impact analysis pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) with regard to any rules and regulations adopted pursuant to this subdivision.

(f) If the qualified taxpayer fails to provide the copyright registration number as required in subparagraph (E) of paragraph (1) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.

(2) On or after July 1, 2016, and before July 1, 2020, in two or more allocation periods per fiscal year, allocate tax credits to applicants.

(A) Establish a procedure for applicants to file with the California Film Commission a written application, on a form jointly prescribed by the California Film Commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:

(i) The budget for the motion picture production.

(ii) The number of production days.

(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) All members of a combined reporting group, if known at the time of the application.

(vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(viii) The amount of qualified wages the applicant expects to pay to qualified individuals.

(ix) The amount of tax credit the applicant computes the qualified motion picture will receive, applying the applicable credit percentages described in paragraph (4) of subdivision (a).

(x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.

(xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.

(B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.

(C) Determine and designate applicants who meet the requirements of this section.

(D) (i) For purposes of allocating the credit amounts subject to the categories described in subdivision (i) in any fiscal year, the California Film Commission shall do all of the following:

(ii) For each allocation date and for each category, list each applicant from highest to lowest according to the jobs ratio as computed by the California Film Commission.

(iii) Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted.

(iv) Pursuant to regulations adopted pursuant to subdivision (e), the California Film Commission may increase the jobs ratio by up to 25 percent if a qualified motion picture increases economic activity in California according to criteria developed by the California Film Commission that would include, but not be limited to, such factors as, the amount of the production and postproduction spending in California, the utilization of production facilities in California, and other criteria measuring economic impact in California as determined by the California Film Commission.

(v) Notwithstanding any other provision, any television series, relocating television series, or any new television series based on a pilot for a new television series that has been approved and issued a credit allocation by the California Film Commission under this section, Section 17053.95, 17053.85, or 23685 shall be issued a credit for each subsequent year, for the life of that television series whenever credits are allocated within a fiscal year.

(E) Subject to the annual cap and the allocation credit amounts based on categories described in subdivision (i), allocate an aggregate amount of credits under this section and Section 17053.95, and allocate any carryover of unallocated credits from prior years and the amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(3) Certify tax credits allocated to qualified taxpayers.

(A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant, including, but not limited to, updates to the information in subparagraph (A) of paragraph (2) of subdivision (g).

(B) Establish audit requirements that must be satisfied before a credit certificate may be issued by the California Film Commission.

(C) (i) Establish a procedure for a qualified taxpayer to report to the California Film Commission, prior to the issuance of a credit certificate, the following information:

(I) If readily available, a list of the states, provinces, or other jurisdictions in which any member of the applicant's combined reporting group in the same business unit as the qualified taxpayer that, in the preceding calendar year, has produced a qualified motion picture intended for release in the United States market. For purposes of this clause, "qualified motion picture" shall not include any episodes of a television series that were complete or in production prior to July 1, 2016.

(II) Whether a qualified motion picture described in subclause (I) was awarded any financial incentive by the state, province, or other jurisdiction that was predicated on the performance of primary principal photography or postproduction in that location.

(ii) The California Film Commission may provide that the report required by this subparagraph be filed in a single report provided on a calendar year basis for those qualified taxpayers that receive multiple credit certificates in a calendar year.

(D) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture reflecting the credit amount allocated after qualified expenditures have been verified and the jobs ratio computed under this section. The amount of credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.

(4) Obtain, when possible, the following information from applicants that do not receive an allocation of credit:

(A) Whether the qualified motion picture that was the subject of the application was completed.

(B) If completed, in which state or foreign jurisdiction was the primary principal photography completed.

(C) Whether the applicant received any financial incentives from the state or foreign jurisdiction to make the qualified motion picture in that location.

(5) Provide the Legislative Analyst's Office, upon request, any or all application materials or any other materials received from, or submitted by, the applicants, in electronic format when available, including, but not limited to, information provided pursuant to clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

(6) The information provided to the California Film Commission pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2.

(h) (1) The California Film Commission shall annually provide the Legislative Analyst's Office, the Franchise Tax Board, and the board with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

(2) (A) Notwithstanding paragraph (6) of subdivision (g), the California Film Commission shall annually post on its internet website and make available for public release the following:

(i) A table which includes all of the following information: a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission, the number of production days in California the qualified taxpayer represented in its application would occur, the number of California jobs that the qualified taxpayer represented in its application would be directly created by the production, and the total amount of qualified expenditures expected to be spent by the production.

(ii) A narrative staff summary describing the production of the qualified taxpayer as well as background information regarding the qualified taxpayer contained in the qualified taxpayer's application for the credit.

(B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a tax credit under this section a public record.

(3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its internet website a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed

to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.

(i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 17053.95 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):

(i) Two hundred thirty million dollars ($230,000,000) in credits for the 2015–16 fiscal year.

(ii) Three hundred thirty million dollars ($330,000,000) in credits for the 2016–17 fiscal year and each fiscal year thereafter, through and including the 2019–20 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:

(i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).

(ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).

(iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).

(iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).

(B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated to another category or categories with a higher demand as determined by the California Film Commission.

(C) Notwithstanding the foregoing, the California Film Commission may increase or decrease an allocation amount in subparagraph (A) by 5 percent, if necessary, due to the jobs ratio, the number of applications, or the allocation credit amounts available by category compared to demand.

(D) With respect to a relocating television series issued a credit in a subsequent year pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), that subsequent credit amount shall be allowed from the allocation amount described in clause (iv) of subparagraph (A).

(3) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.

(j) The California Film Commission shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.

SEC. 16. Section 24416.23 is added to the Revenue and Taxation Code, to read:

24416.23. (a) Notwithstanding Sections 24416, 24416.1, 24416.4, 24416.7, and 24416.22, former Sections 24416.2, 24416.5, 24416.6, and 24416.20, and Section 172 of the Internal Revenue Code, a net operating loss deduction shall not be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2023.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2020, and before January 1, 2021.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2020.

(c) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2020, and before January 1, 2023, pursuant to subdivision (a) shall not apply to a taxpayer with income subject to tax under this part of less than one million dollars ($1,000,000) for the taxable year.

SEC. 17. Section 61015 of the Revenue and Taxation Code is amended to read:

61015. (a) The amount of the Individual Shared Responsibility Penalty imposed on a responsible individual for a taxable year with respect to the failures described in Section 61010 shall be equal to the lesser of either of the following amounts:

(1) The sum of the monthly penalty amounts determined under subdivision (b) for months in the taxable year during which one or more of the failures described in Section 61010 occurred.

(2) An amount equal to one-twelfth of the state average premium for qualified health plans that have a bronze level of coverage for the applicable household size involved, and are offered through the Exchange for plan years beginning in the calendar year with or within which the taxable year ends, multiplied by the number of months in which a failure described in Section 61010 occurred.

(b) For purposes of subdivision (a), the monthly penalty amount with respect to a responsible individual for any month during which a failure described in Section 61010 occurred is an amount equal to one-twelfth of the greater of either of the following amounts:

(1) An amount equal to the lesser of either of the following:

(A) The sum of the applicable dollar amounts for all applicable household members who failed to enroll in and maintain minimum essential coverage pursuant to Section 100705 of the Government Code during the month, except as provided by Section 61023.

(B) Three hundred percent of the applicable dollar amount determined for the calendar year during which the taxable year ends.

(2) An amount equal to 2.5 percent of the excess of the responsible individual's applicable household income for the taxable year over the amount of gross income that would trigger the responsible individual's requirement to file a state income tax return under Section 18501, also referred to as the applicable filing threshold, for the taxable year.

(c) For purposes of subdivisions (a) and (b):

(1) Except as provided in paragraph (2) and subdivision (d), the applicable dollar amount is six hundred ninety-five dollars ($695).

(2) If an applicable individual has not attained 18 years of age as of the beginning of a month, the applicable dollar amount with respect to that individual for that month shall be equal to one-half of the applicable dollar amount as provided in paragraph (1) or subdivision (d).

(3) The maximum monthly penalty, under paragraph (1) or (2) of subdivision (a), for a responsible individual with an applicable household size of five or more individuals equals the maximum monthly penalty for a responsible individual with an applicable household size of five individuals.

(d) In the case of a calendar year beginning after 2019, the applicable dollar amount shall be equal to six hundred ninety-five dollars ($695) and increased as follows:

(1) An amount equal to six hundred ninety-five dollars ($695) multiplied by the cost-of-living adjustment determined pursuant to paragraph (2).

(2) A cost-of-living adjustment for a calendar year is an amount equal to the percentage by which the California Consumer Price Index for all items in the preceding calendar year exceeds the California Consumer Price Index for all items for the 2016 calendar year.

(3) If the amount of an increase under paragraph (1) is not a multiple of fifty dollars ($50), that increase shall be rounded down to the next multiple of fifty dollars ($50).

(4) No later than August 1 of each year, the Department of Industrial Relations shall annually transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, inclusive.

(e) For taxable years during which the Franchise Tax Board determines that a federal shared responsibility penalty applies, the Individual Shared Responsibility Penalty shall be reduced, but not below zero, by the amount of the federal penalty imposed on the responsible individual for each month of the taxable year during which the Individual Shared Responsibility Penalty is imposed.

SEC. 18. Section 61020 of the Revenue and Taxation Code is amended to read:

61020. An Individual Shared Responsibility Penalty shall not be imposed on a responsible individual for a month in which any of the following circumstances apply:

(a) If the responsible individual’s required contribution, determined on an annual basis, for coverage for the month exceeds 8.3 percent of that responsible individual’s applicable household income for the taxable year.

(1) For purposes of applying this subdivision, a responsible individual's applicable household income shall be increased by any exclusion from gross income for any portion of the required contribution made through a salary reduction arrangement for any applicable household member.

(2) For purposes of this subdivision, the term "required contribution" means either of the following:

(A) In the case of a responsible individual eligible to purchase minimum essential coverage consisting of coverage through an eligible employer-sponsored plan, the portion of the annual premium that would be paid by the responsible individual, without regard to whether paid through salary reduction or otherwise, for self-only coverage.

(B) In the case of a responsible individual eligible only to purchase minimum essential coverage in the individual market, the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the rating area in which the individual resides, reduced by any premium assistance for the taxable year determined as if the responsible individual was covered by a qualified health plan offered through the Exchange for the entire taxable year.

(3) For purposes of subparagraph (A) of paragraph (2), if a responsible individual is eligible for minimum essential coverage through an employer by reason of a relationship to an applicable household member, the determination under this subdivision shall be made by reference to the portion of the premium required to be paid by the applicable household member for family coverage.

(4) In the case of plan years beginning in any calendar year after 2019, this subdivision shall be applied by substituting for "8.3 percent" an amount equal to 8 percent increased by the amount the United States Secretary of Health and Human Services determines reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for that period. If the United States Secretary of Health and Human Services fails to determine this percentage for a calendar year, the Exchange shall determine the percentage.

(b) If the responsible individual's applicable household income for the taxable year containing the month is less than the amount of adjusted gross income specified in paragraph (1) or (2) of subdivision (a) of Section 18501 for that taxable year.

(c) If the responsible individual's gross income for the taxable year containing the month is less than the amount specified in paragraph (3) of subdivision (a) of Section 18501.

SEC. 19. Section 61030 of the Revenue and Taxation Code is amended to read:

61030. (a) The Franchise Tax Board may, in consultation with the Exchange, adopt regulations that are necessary and appropriate to implement this part.

(b) It is the intent of the Legislature that, in construing this part, the regulations promulgated by under Section 5000A of the Internal Revenue Code as of December 15, 2017, notwithstanding the specified date in paragraph (1) of subdivision (a) of Section 17024.5, shall apply to the extent that those regulations do not conflict with this part or regulations promulgated by the Franchise Tax Board pursuant to subdivision (a) in consultation with the Exchange.

(c) Until January 1, 2022, 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 regulation, standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this part.

SEC. 20. Section 426 of the Vehicle Code is amended to read:

426. "New motor vehicle dealer" is a dealer, as defined in Section 285, who, in addition to the requirements of that section, either acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those motor vehicles or acquires for resale new off-highway motorcycles, or all-terrain vehicles from manufacturers or distributors of the vehicles. A distinction shall not be made, nor any different construction be given to the definition of "new motor vehicle dealer" and "dealer" except for the application of the provisions of Chapter 6 (commencing with Section 3000) of Division 2 and Sections 4456, 4750.6, and 11704.5. Sections 3001 and 3003 do not, however, apply to a dealer who deals exclusively in motorcycles, all-terrain vehicles, or recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.

SEC. 21. Section 4456 of the Vehicle Code is amended to read:

4456. (a) When selling a vehicle, dealers and lessor-retailers shall report the sale using the reporting system described in Section

4456.2. After providing information to the reporting system, the dealer or lessor-retailer shall do all of the following:

(1) The dealer or lessor-retailer shall attach for display a copy of the report-of-sale form provided by the reporting system on the vehicle before the vehicle is delivered to the purchaser.

(2) The dealer or lessor-retailer shall submit to the department an application accompanied by all fees and penalties due for registration or transfer of registration of the vehicle within 30 days from the date of sale, as provided in subdivision (c) of Section 9553, if the vehicle is a used vehicle, and within 20 days if the vehicle is a new vehicle. Penalties due for noncompliance with this paragraph shall be paid by the dealer or lessor-retailer. The dealer or lessor-retailer shall not charge the purchaser for the penalties.

(3) (A) For retail sales of vehicles occurring on and after January 1, 2021, the dealer shall also submit with the application payment of the applicable sales tax measured by the gross receipts from the sale of the vehicle as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code) to the department within 30 days from the date of sale.

(B) For purposes of this paragraph, "dealer" shall not include a new motor vehicle dealer as defined by Section 426, a manufacturer or remanufacturer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5, an automobile dismantler holding a license and certificate issued pursuant to Chapter 3 (commencing with Section 11500) of Division 5, or a lessor-retailer holding a license issued pursuant to Chapter 3.5 (commencing with Section 11600) of Division 5, and subject to the provisions of Section 11615.5.

(4) As part of an application to transfer registration of a used vehicle, the dealer or lessor-retailer shall include all of the following information on the certificate of title, application for a duplicate certificate of title, or form prescribed by the department:

(A) Date of sale and report-of-sale number.

(B) Purchaser's name and address.

(C) Dealer's name, address, number, and signature, or signature of authorized agent.

(D) Salesperson number.

(5) If the department returns an application and the application was first received by the department within 30 days of the date of sale of the vehicle if the vehicle is a used vehicle, and within 20 days if the vehicle is a new vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and within 40 days if the vehicle is a new vehicle, or within 30 days from the date that the application was first returned by the department if the vehicle is a used vehicle, and within 20 days if the vehicle is a new vehicle, whichever is later.

(6) If the department returns an application and the application was first received by the department more than 30 days from the date of sale of the vehicle if the vehicle is a used vehicle, and more than 20 days if the vehicle is a new vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and within 40 days if the vehicle is a new vehicle.

(7) An application first received by the department more than 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and more than 40 days if the vehicle is a new vehicle, is subject to the penalties specified in subdivisions (a) and (b) of Section 4456.1.

(8) The dealer or lessor-retailer shall report the sale pursuant to Section 5901.

(9) If the vehicle does not display license plates previously issued by the department, the dealer or lessor-retailer shall attach the temporary license plates issued by the reporting system.

(b) (1) A transfer that takes place through a dealer conducting a wholesale vehicle auction shall be reported to the department electronically in a manner approved by the department. The report shall contain, at a minimum, all of the following information:

(A) The name and address of the seller.

(B) The seller's dealer number, if applicable.

(C) The date of delivery to the dealer conducting the auction.

(D) The actual mileage of the vehicle as indicated by the vehicle's odometer at the time of delivery to the dealer conducting the auction.

(E) The name, address, and occupational license number of the dealer conducting the auction.

(F) The name, address, and occupational license number of the buyer.

(G) The signature of the dealer conducting the auction.

(2) Submission of the electronic report specified in paragraph (1) to the department shall fully satisfy the requirements of subdivision (a) and subdivision (a) of Section 5901 with respect to the dealer selling at auction and the dealer conducting the auction.

(3) The electronic report required by this subdivision does not relieve a dealer of any obligation or responsibility that is required by any other law.

(c) A vehicle displaying a report-of-sale form or temporary license plate issued pursuant to paragraph (8) of subdivision (a) may be operated without license plates until either of the following, whichever occurs first:

(1) The license plates and registration card are received by the purchaser.

(2) A 90-day period, commencing with the date of sale of the vehicle, has expired.

(d) Notwithstanding subdivision (c), a vehicle may continue to display a report-of-sale form or temporary license plates after 90 days if the owner provides proof that the owner has submitted an application to the department pursuant to Section 4457 and it has been no more than 14 days since the permanent license plates were issued to the owner. A violation of this paragraph is a correctable offense pursuant to Section 40303.5.

(e) This section shall become operative January 1, 2019.

SEC. 22. Section 4750.6 is added to the Vehicle Code, to read:

4750.6. (a) (1) The department shall withhold the registration or the transfer of registration of any vehicle sold at retail on and after January 1, 2021, to any applicant by any dealer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5 until the dealer pays to the department the sales tax measured by the gross receipts from the sale of the vehicle as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the California Department of Tax and Fee finds that no sales tax is due.

(2) Notwithstanding paragraph (1), the department may register or transfer the registration of a vehicle described in paragraph (1)

for which the sales tax has not been paid by the dealer if the applicant can establish an amount of sales tax reimbursement was paid to the dealer on the sale of that vehicle by providing documentation, including a receipt or an invoice, that was provided to the purchaser by the dealer.

(b) The department shall transmit to the California Department of Tax and Fee Administration all collections of sales tax and penalty made under this section. This transmittal shall be made within 30 days, accompanied by a schedule in such form as the department and California Department of Tax and Fee Administration may prescribe.

(c) The California Department of Tax and Fee Administration shall reimburse the department for its costs incurred in carrying out the provisions of this section. The reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any sales tax or penalty thereon under the provisions of this section, dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

(e) For purposes of this section, "dealer" shall not include a new motor vehicle dealer as defined by Section 426, a manufacturer or remanufacturer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5, an automobile dismantler holding a license and certificate issued pursuant to Chapter 3 (commencing with Section 11500) of Division 5, or a lessor-retailer holding a license issued pursuant to Chapter 3.5 (commencing with Section 11600) of Division 5, and subject to the provisions of Section 11615.5.

SEC. 23. Section 12 of Chapter 34 of the Statutes of 2019 is amended to read:

SEC. 12. (a) It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code to Sections 2 and 3 of this act.

(b) With respect to Section 6363.9 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares the following:

(1) The specific goals, purposes, and objectives of this act are to promote public health by increasing the affordability of, and expanding access to, diapers.

(2) (A) To measure the goals set forth in paragraph (1), the Legislative Analyst's Office shall review the effectiveness of the tax exemption and may request information from the California Department of Tax and Fee Administration and any other relevant state government entity.

(B) On or before July 1, 2022, the Legislative Analyst's Office shall submit a report, in compliance with Section 9795 of the Government Code, of the review completed pursuant to subparagraph (A) to the Assembly Committee on Revenue and Taxation and to the Senate Governance and Finance Committee. The report shall include, but is not limited to, both of the following:

(i) A recommendation on whether the exemption should be modified, extended, or allowed to become inoperative.

(ii) An assessment on whether more targeted approaches to providing families in need with adequate access to diapers are available.

(c) With respect to Section 6363.10 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares the following:

(1) The specific goals, purposes, and objectives of this act are to promote public health by increasing the affordability of, and expanding access to, menstrual hygiene products.

(2) (A) To measure the goals set forth in paragraph (1), the Legislative Analyst's Office shall review the effectiveness of the tax exemption and may request information from the California Department of Tax and Fee Administration and any other relevant state government entity.

(B) On or before July 1, 2022, the Legislative Analyst's Office shall submit a report, in compliance with Section 9795 of the Government Code, of the review completed pursuant to subparagraph (A) to the Assembly Committee on Revenue and Taxation and to the Senate Governance and Finance Committee. The report shall include, but is not limited to, both of the following:

(i) A recommendation on whether the exemption should be modified, extended, or allowed to become inoperative.

(ii) An assessment on whether more targeted approaches to providing individuals in need with adequate access to menstrual hygiene products are available.

SEC. 24. (a) It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code to Sections 9, 10, and 11 of this act.

(b) With respect to Sections 17935, 17941, and 17948 of the Revenue and Taxation Code, as amended by this act, the Legislature finds and declares as follows:

(1) The goal of this act is to help and reduce costs for first-year California small businesses. Existing law imposes an annual minimum franchise tax of eight hundred dollars ($800) on every corporation, and an annual tax of eight hundred dollars ($800) on every limited liability company (LLC), limited partnership (LP), and limited liability partnership (LLP), which may be difficult to afford for first-year businesses. As such, these taxes may stifle economic growth and job creation and may inhibit the formation of many small businesses.

(2) The performance indicator for this act is the number of first-year businesses that are affected by the act.

(3) Notwithstanding Section 19542 of the Revenue and Taxation Code, on or before January 1, 2023, and on or before January 1 each year thereafter through, and including, January 1, 2024, the Franchise Tax Board shall submit an annual report to the Legislature on the performance of first-year corporations, LLC, LPs, and LLPs in the state using the data in paragraph (2). The report required by this paragraph shall be submitted pursuant to Section 9795 of the Government Code.

SEC. 25. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under Sections 2 and 3 of this act as required by Section 2230 of the Revenue and Taxation Code.

SEC. 26. 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.

Approved _____, 2020

_____

Governor