

AMENDED IN SENATE MAY 16, 2024

AMENDED IN SENATE MAY 2, 2024

AMENDED IN SENATE MARCH 20, 2024

SENATE BILL

No. 1327

Introduced by Senator Glazer

**(Coauthors: Senators Blakespear, *Hurtado*, Laird, McGuire, and
Padilla) *Padilla*, Stern, and Wiener)**

February 16, 2024

An act to add Sections 17281, 19608, and 24380 to, to add Part 10.9 (commencing with Section 21200) to Division 2 of, and to add and repeal Sections 17053.76 and 23622 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1327, as amended, Glazer. Income taxation: credits: local news media: data extraction transactions.

(1) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would, for taxable years beginning on or after January 1, 2024, and before January 1, 2029, allow a credit against the taxes imposed by those laws for portions of the costs for qualified services paid or incurred by a qualified taxpayer. The bill would define "qualified taxpayer" for this purpose to mean an eligible local news organization or a qualified broadcast station, as those terms are defined. The bill would require a taxpayer to request a tentative credit reservation from the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board, and would limit the amount of credit allocated

by the Franchise Tax Board per calendar year. *The bill would require the Franchise Tax Board to prioritize reservations by qualified small publications, as defined and specified.* The bill would allow a payment from the continuously appropriated Tax Relief and Refund Account for an allowable credit in excess of tax liability to a qualified renter, as provided. By authorizing new payments from the Tax Relief and Refund Account in excess of personal income tax liabilities, the bill would make an appropriation.

(2) The Personal Income Tax Law and Corporation Tax Law impose taxes measured by income. Those taxes are administered by the Franchise Tax Board pursuant to specified law, the violation of which is a crime.

This bill, for taxable years beginning on or after January 1 of an unspecified year, and in addition to the taxes imposed under the Personal Income Tax Law and the Corporation Tax Law, would impose a tax upon gross receipts derived from data extraction transactions at a rate of 7.25% of those gross receipts. The bill would define a “data extraction transaction” for these purposes to mean a transaction where a taxpayer sells user information or access to users to advertisers and the taxpayer engages in a barter by providing services to a user in full or partial exchange for the ability to display advertisements to the user or collect data about the user, except as provided. The bill would exclude a news media entity, as defined, from the provisions of this tax as either a taxpayer or a user, and would further exempt from the tax any person with less than \$2,500,000,000 in gross receipts derived from data extraction taxes in this state in the taxable year. The bill would establish the Data Extraction Mitigation Fee Fund in the State Treasury, and would direct all revenues from the tax, less refunds and reimbursements, be deposited into the fund, as specified. The bill would *appropriate \$15,000,000 for journalism fellowships, as specified, and would require the remaining moneys in the fund, except as provided, to be used, upon appropriation, for grants to eligible nonprofit local news organizations administered by the Franchise Tax Board, as specified, or to fund and support activities and programs to assist local journalism. specified.* The bill would require the Franchise Tax Board to administer this tax in accordance with existing franchise and income tax law provisions, the violation of which is a crime. By expanding the crimes related to the franchise and income tax laws, this bill would impose a state-mandated local program.

(3) The Personal Income Tax Law and Corporation Tax Law, in modified conformity with federal income tax laws, generally allow various deductions in computing the income that is subject to tax imposed under those laws, including miscellaneous itemized deductions that are allowed only to the extent that the aggregate amount of those deductions exceeds 2% of adjusted gross income.

This bill, for taxable years beginning on or after January 1, _____, would allow a deduction in computing the income that is subject to those laws equal to the amount of taxes paid by the taxpayer under the above-described data extraction transaction tax.

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

This bill would include additional information required for any bill authorizing a new tax expenditure.

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

(5)

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6)

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The largest internet corporations use their control of essential
4 online platforms to extract personal-~~data~~ *data*, which they use to
5 generate enormous economic rents. This personal data is highly
6 valuable, as demonstrated by the massive profit these corporations
7 make using this information to sell digital advertisements. For the

1 purposes of efficiency and equity in the tax base, such economic
2 rents should be subject to taxation.

3 (b) The Sales and Use Tax Law provides that products are taxed
4 at a uniform statewide ~~rate~~ *rate*, which local governments and
5 special districts can increase with voter approval consistent with
6 the California Constitution. However, many digital transactions
7 are hard to bring into the digital sales tax base because instead of
8 paying a monetary fee, customers sometimes barter their personal
9 information for access to digital platforms and services.
10 Corporations then use this data to target advertisements on digital
11 platforms. To tax this consumption, leading tax economists have
12 suggested using the receipts earned from data extraction
13 transactions as a proxy for the value of the barter.

14 (c) As has been noted by many, including the Organization for
15 Economic Co-operation and Development (OECD), the value of
16 the consumption provided by digital platforms typically increases
17 as the size of its network increases. As such, the consumption value
18 provided by networks of a small size is negligible, especially when
19 compared to the compliance burden that would be imposed on
20 smaller digital platforms.

21 (d) Digital advertising is not substantially similar to traditional
22 print or broadcast advertising, as traditional advertising neither
23 relies on the extraction of valuable personal information from
24 users, nor does it serve as a proxy for currently untaxed
25 consumption.

26 (e) Because barter sales are sales to an end user, they are
27 appropriately part of the sales tax base. Profits from barter sales may
28 not be taxed effectively to the extent the gross receipts derived
29 from them are offset by business expense deductions, excluded by
30 the water's edge election, or offset by tax credits.

31 (f) Furthermore, ethnic media stands out as an important form
32 of journalism and communication. It plays a crucial role in
33 informing, involving, and championing communities that often
34 lack coverage from mainstream media, whether for profit or
35 nonprofit.

36 (g) Prioritizing support for these outlets is essential for
37 maintaining the integrity of the fourth estate in our democratic
38 system. By fostering communication across racial and ethnic lines,
39 ethnic media promotes social inclusion, encourages civic

1 participation, and addresses disparities among all marginalized
2 groups.

3 SEC. 2. Section 17053.76 is added to the Revenue and Taxation
4 Code, to read:

5 17053.76. (a) (1) For each taxable year beginning on or after
6 January 1, 2024, and before January 1, 2029, there shall be allowed
7 a credit against the “net tax,” as defined in Section 17039, to a
8 qualified taxpayer that pays or incurs costs for qualified services
9 and that receives a tentative credit reservation.

10 (2) ~~The~~ Except as provided in paragraph (5), credit allowed by
11 this section shall be the sum of both of the following amounts:

12 (A) The applicable amount calculated as follows:

13 (i) For a qualified taxpayer with fewer than 10 employees on
14 the first day of the taxable year that satisfies the requirements of
15 paragraph (3), the sum of the following:

16 (I) Forty percent of the qualified wages paid or incurred for all
17 qualified full-time employees.

18 (II) Ten percent of qualified wages paid or incurred to qualified
19 full-time employees hired on or after the effective date of the act
20 adding this section, and before January 1, 2029, if the qualified
21 taxpayer has a net increase in employment in the taxable year.

22 (ii) For a qualified taxpayer with fewer than 10 employees on
23 the first day of the taxable year that does not satisfy the
24 requirements of paragraph (3), the sum of the following:

25 (I) Thirty-five percent of the qualified wages paid or incurred
26 for all qualified full-time employees.

27 (II) Ten percent of qualified wages paid or incurred to qualified
28 full-time employees hired on or after the effective date of the act
29 adding this section, and before January 1, 2029, if the qualified
30 taxpayer has a net increase in employment in the taxable year.

31 (iii) For a qualified taxpayer with 10 or more employees on the
32 first day of the taxable year that satisfies the requirements of
33 paragraph (3), the sum of the following:

34 (I) Thirty percent of the qualified wages paid or incurred for all
35 qualified full-time employees.

36 (II) Ten percent of qualified wages paid or incurred to qualified
37 full-time employees hired on or after the effective date of the act
38 adding this section, and before January 1, 2029, if the qualified
39 taxpayer has a net increase in employment in the taxable year.

(iv) For a qualified taxpayer with 10 or more employees on the first day of the taxable year that does not satisfy the requirements of paragraph (3), the sum of the following:

(I) Twenty-five percent of the qualified wages paid or incurred for all qualified full-time employees.

(II) Ten percent of qualified wages paid or incurred to qualified full-time employees hired on or after the effective date of the act adding this section, and before January 1, 2029, if the qualified taxpayer has a net increase in employment in the taxable year.

(B) Twenty percent of costs incurred to acquire freelance content produced by individuals performing qualified services that is subsequently published or broadcast by the qualified taxpayer.

(3) For purposes of paragraph (2), a qualified taxpayer satisfies the requirements of this paragraph if the taxpayer provides their qualified full-time employees both of the following:

(A) Employer-provided group health insurance.

(B) Employer-provided retirement benefits or pension benefits, including stock in the employer under employee stock ownership plans where the employer pays for the full value of the stock.

(4) If a taxpayer is eligible for a credit calculated pursuant to clause (iii) or (iv) of subparagraph (A) of paragraph (2) for the taxable year beginning on or after January 1, 2024, and before January 1, 2025, the taxpayer may not receive a credit calculated pursuant to clause (i) or (ii) of subparagraph (A) of paragraph (2) for the following two taxable years.

(5) For purposes of calculating the amount of the credit allowed by this section for a qualified small publication, the percentages specified in subparagraphs (A) and (B) of paragraph (2) shall be increased by five.

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

(1) “Disqualified organization” means any of the following:

(A) Any organization exempt from tax under Chapter 4 (commencing with Section 23701) of Part 11, except for an organization exempt under Section 23701d.

(B) Any organization described in Section 527 of the Internal Revenue Code.

(C) Any organization that is owned or controlled, directly or indirectly, by one or more organizations described in subparagraph

(A) or (B).

(2) “Eligible local news organization” means, with respect to any taxable year, any person or entity with primary circulation or distribution in the state who meets all of the following requirements:

(A) Publishes ~~four~~ 24 or more qualifying publications distributed in the state during the taxable year.

(B) Is not a disqualified organization.

(C) Does not derive more than 50 percent of its gross receipts, less returns and allowances, from disqualified organizations in the taxable year.

(3) “Local community” means, with respect to any qualifying broadcast station or qualifying publication, a geographically contiguous area in the state that does not exceed the boundaries of:

(A) In the case of a qualifying broadcast station, the area in the state for which the qualifying broadcast station is licensed to serve by the Federal Communications Commission under Section 307 of the federal Communications Act of 1934 (Public Law 73-416).

(B) (i) In the case of a qualifying publication, the following:

(I) If the qualifying publication is primarily distributed in a metropolitan or micropolitan statistical area in the state, as defined by the federal Office of Management and Budget, the metropolitan or micropolitan statistical area in which the qualifying publication is primarily distributed.

(II) If the qualifying publication is not primarily distributed in a metropolitan or micropolitan statistical area, the county in which the qualifying publication is primarily distributed.

(ii) For purposes of this subparagraph, in the case of a qualifying publication that is a digital publication, the qualifying publication shall be considered primarily distributed in the area where the publication is primarily consumed.

(4) “Qualified broadcast station” means an employer who meets all of the following requirements:

(A) Owns or operates a broadcast station, as defined in Section 3 of the federal Communications Act of 1934 (Public Law 73-416), in the state.

(B) Is not a disqualified organization.

(C) Derives no more than 50 percent of its gross receipts, less returns and allowances, from disqualified organizations in the taxable year in which the credit is claimed.

(5) “Qualified full-time employee” means an individual who meets both of the following requirements:

(A) ~~Provides~~—(i) *Except as provided in clause (ii), provides* qualified services for an average of not less than 35 hours per week for each week the employee is employed by the qualified taxpayer, or is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(ii) *For purposes of a qualified small publication, provides qualified services for an average of not less than 30 hours per week for each week the employee is employed by the qualified taxpayer who is a qualified small publication, or is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer who is a qualified small publication.*

(B) Resides in the state.

(6) “Qualified services” means gathering, preparing, recording, directing the recording of, producing, collecting, photographing, writing, editing, reporting, presenting, or publishing original local community news for dissemination to the local community.

(7) “Qualified small publication” means an eligible local news organization or a qualified broadcast station with five or fewer full-time employees throughout the taxable year.

~~(7)~~

(8) “Qualified taxpayer” means an eligible local news organization or a qualified broadcast station in the state.

~~(8)~~

(9) “Qualified wages” means those wages subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code. For purposes of subparagraphs (B) and (C) of paragraph (2) of subdivision (a), “qualified wages” also means only those wages paid or incurred beginning with the first day the qualified full-time employee provides qualified services to the qualified taxpayer.

~~(9)~~

(10) “Qualifying publication” means any print or digital publication that satisfies all of the following:

(A) The primary purpose of the publication is to serve a local community in the state by providing local news.

1 (B) The publication was published in the state during the taxable
2 year and the prior taxable year.

3 (C) The publication is covered by media liability insurance.

4 (c) For purposes of this section, the following shall apply:

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

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

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

16 (4) Principles that apply in the case of controlled groups of
17 corporations, as specified in subdivision (c) of Section 23622, shall
18 apply with respect to determining employment.

19 (d) In case the credit allowed by this section exceeds the “net
20 tax,” the excess shall be credited against other amounts due, if any,
21 and the balance, if any, shall be paid from the Tax Relief and
22 Refund Account and refunded to the taxpayer.

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

31 (2) (A) The Franchise Tax Board may prescribe any regulations
32 necessary or appropriate to carry out the purposes of this section,
33 including any regulations to prevent improper claims from being
34 filed.

35 (B) The adoption of any regulations pursuant to subparagraph
36 (A) may be adopted as emergency regulations in accordance with
37 the rulemaking provisions of the Administrative Procedure Act
38 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
39 Division 3 of Title 2 of the Government Code) and shall be deemed
40 an emergency and necessary for the immediate preservation of the

1 public peace, health and safety, or general welfare. Notwithstanding
2 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
3 3 of Title 2 of the Government Code, these emergency regulations
4 shall not be subject to the review and approval of the Office of
5 Administrative Law. The regulations shall become effective
6 immediately upon filing with the Secretary of State, and shall
7 remain in effect until revised or repealed by the Franchise Tax
8 Board.

9 (f) (1) Any deduction otherwise allowed under this part for
10 qualified wages shall be reduced by the amount of the credit
11 allowed under this section.

12 (2) The credit allowed by this section shall be in lieu of any
13 other credit that the qualified taxpayer may otherwise be allowed
14 under this part with respect to amounts taken into account in
15 calculating the credit allowed by this section.

16 (3) The credit allowed under this section must be claimed on a
17 timely filed original return and when the qualified taxpayer has
18 received a tentative credit reservation.

19 (4) If the qualified taxpayer is allowed a credit pursuant to this
20 section for qualified wages paid or incurred, only one credit shall
21 be allowed to the taxpayer under this part with respect to any wage
22 consisting in whole or in part of those qualified wages.

23 (g) The net increase in full-time employees of a qualified
24 taxpayer shall be determined as follows:

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

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

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

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

38 (h) (1) The total aggregate amount of the credit that may be
39 allocated by credit reservations per calendar year to all qualified
40 taxpayers pursuant to this section and Section 23622 shall not

1 exceed ____, plus the unallocated credit amount, if any, from the
2 preceding calendar year.

3 (2) (A) To be eligible for the credit allowed by this section, a
4 qualified taxpayer shall request a credit reservation from the
5 Franchise Tax Board, in the form and manner prescribed by the
6 Franchise Tax Board.

7 (B) To obtain a credit reservation, the qualified taxpayer shall
8 provide necessary information, as determined by the Franchise
9 Tax Board.

10 (3) The Franchise Tax Board shall do ~~both~~ *all* of the following:

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

13 (B) Subject to the annual cap established as provided in
14 paragraph (1), allocate an aggregate amount of credits under this
15 section and Section 23622, and allocate any carryover of
16 unallocated credits from the prior year. If credit reservation credit
17 requests exceed the amount in paragraph (1), the Franchise Tax
18 Board shall reduce the amount of credit on a proportional basis,
19 and notify qualified taxpayers of the revised credit ~~amount~~ *amount*,
20 *except that the Franchise Tax Board shall not reduce any credit*
21 *claimed by a qualified taxpayer who is a qualified small publication*
22 *unless credit reservation requests from qualified taxpayers who*
23 *are qualified small publications exceed the annual cap established*
24 *by paragraph (1).*

25 (C) *Prioritize processing credit reservation requests and credit*
26 *claims from qualified small publications.*

27 (i) (1) For purposes of complying with Section 41, as it relates
28 to the credit allowed by this section and Section 23622, the
29 Legislature finds and declares as follows:

30 (A) The goal of the credit is to increase employment of local
31 journalists in local news organizations.

32 (B) The performance indicators for the Legislature to use in
33 determining whether the credits meet the goal described in
34 subparagraph (A) are the number of taxpayers who utilized the
35 credits and the total dollar amount of credits claimed.

36 (2) (A) The Franchise Tax Board shall analyze the performance
37 indicators in subparagraph (B) of paragraph (1) for each taxable
38 year, and shall report its findings to the Legislature, in compliance
39 with Section 9795 of the Government Code, on or before May 1,
40 2032.

1 (B) The disclosure provisions of this paragraph shall be treated
2 as an exception to Section 19542.

3 (j) (1) Except as provided in paragraph (2), this section shall
4 remain in effect only until December 1, 2029, and as of that date
5 is repealed.

6 (2) Notwithstanding paragraph (1) of subdivision (a), this section
7 shall continue to be operative for taxable years beginning on or
8 after January 1, 2029, but only with respect to qualified full-time
9 employees who commenced employment with a qualified taxpayer
10 in a taxable year beginning before January 1, 2029, and in no case
11 shall the wages of a qualified full-time employee be considered in
12 determining any credit under this section for taxable years
13 beginning on or after January 1, 2034.

14 SEC. 3. Section 17281 is added to the Revenue and Taxation
15 Code, to read:

16 17281. (a) For taxable years beginning on or after January 1,
17 ____, a deduction shall be allowed for the amount of any taxes
18 paid pursuant to Part 10.8 (commencing with Section 21100).

19 (b) (1) For purposes of complying with Section 41, as it relates
20 to the deduction allowed by this section and Section 24380, the
21 Legislature finds and declares as follows:

22 (A) The specific goal, purpose, and objective of the deduction
23 is to avoid double taxation of income related to data extraction
24 transactions.

25 (B) The performance indicator for the Legislature to use in
26 determining if the deduction achieves its stated purpose is the
27 number of taxpayers allowed a deduction pursuant to this section
28 or Section 24380.

29 (2) (A) By November 1, ____, and annually thereafter, the
30 Franchise Tax Board shall submit a report to the Legislature, in
31 accordance with Section 9795 of the Government Code, detailing
32 the number of taxpayers allowed a deduction pursuant to this
33 section and Section 24380.

34 (B) The disclosure provisions of this paragraph shall be treated
35 as an exception to Section 19542.

36 SEC. 4. Section 19608 is added to the Revenue and Taxation
37 Code, to read:

38 19608. (a) There is hereby created in the State Treasury the
39 Data Extraction Mitigation Fee Fund.

(b) All revenues, interest, and penalties derived from the tax imposed pursuant to Part 10.8 (commencing with Section 21100), less refunds and reimbursements to the Franchise Tax Board for expenses incurred in administration and collection of the tax, shall be deposited into the fund.

(c) After satisfying the requirements of Sections 8 and 20 of Article XVI of the California Constitution, any remaining revenues in the Fund shall be allocated as follows:

(1) To support journalism fellowships as follows:

(A) The amount of ten million dollars (\$10,000,000) to the University of California, Berkeley, California Local News Fellowship program for grants to expand coverage of local public affairs throughout the state.

(B) The amount of five million dollars (\$5,000,000) annually to establish a program to provide fellowships for hiring, training, and career progression for journalists and media professionals from historically underrepresented and marginalized backgrounds to support their professional growth, facilitate networking, foster community connections, and promote equity and inclusion. The program shall strengthen newsroom and ownership diversity for ethnic and underserved communities.

~~(1)~~

(2) To the General Fund in an amount estimated by the Franchise Tax Board to reimburse for any deductions claimed under Sections 17281 and 24384.

~~(2)~~

(3) To the General Fund in an amount estimated by the Franchise Tax Board to reimburse foregone revenues attributable to the credits allowed by Sections 17053.76 and 23622.

~~(3)~~

(4) (A) Upon appropriation by the Legislature, an amount up to twenty-five million dollars (\$25,000,000), or 5 percent of total annual revenues, whichever is more, for grants to an eligible local news organization, as defined in Section 17053.76, which are nonprofit organizations exempt from tax under Chapter 4 (commencing with Section 23701) of Part 11, except for an organization exempt pursuant to Section 23701d. Fifty percent of this amount shall be reserved for distribution to eligible news organization as described above with fewer than ten full-time employees.

1 (B) (i) The Franchise Tax Board shall only make grants to
2 organizations that would be eligible for a tax credit pursuant to
3 Section 17053.76 or 23622.

4 (ii) Grants made pursuant to this paragraph shall be in an amount
5 equal to the amount of the credit the organization would have
6 received pursuant to Section 17053.76 or 23622 if the organization
7 were not exempt from taxation.

8 (C) To be eligible for a grant under this paragraph, a nonprofit
9 organization exempt from tax shall apply for a reservation to the
10 Franchise Tax Board, in the form and manner prescribed by the
11 Franchise Tax Board.

12 (D) To apply for a grant reservation, the nonprofit organization
13 shall provide necessary information, as determined by the Franchise
14 Tax Board.

15 (E) The Franchise Tax Board shall do ~~both~~ *all* of the following:

16 (i) Approve a tentative grant reservation with respect to an
17 eligible individual.

18 (ii) Subject to the annual cap established as provided in
19 subparagraph (A), allocate an aggregate amount of grants, and
20 allocate any carryover of unallocated grants from the prior year.

21 *(iii) Prioritize processing grant reservation requests and grants*
22 *to qualified small publications, as defined in Section 17053.76.*

23 (F) (i) If grant reservations requests exceed the twenty-five
24 million dollars (\$25,000,000), or 5 percent of total annual revenues,
25 the Franchise Tax Board shall reduce the amount of the grant to
26 each eligible recipient on a proportional basis, and notify recipients
27 of the revised grant ~~amount.~~ *amount, except that the Franchise*
28 *Tax Board shall not reduce any grant for an eligible recipient who*
29 *is a qualified small publication unless grant reservation requests*
30 *from eligible recipients who are qualified small publications exceed*
31 *the annual cap established by this paragraph.*

32 (ii) If grant reservations for organizations with fewer than ten
33 full-time employees exceed the amount reserved for such
34 organizations pursuant to subparagraph (A), the Franchise Tax
35 Board shall make grants from the remaining moneys authorized
36 under subparagraph (A).

37 (iii) If, after fulfilling grant reservations for organizations with
38 fewer than 10 full-time employees, there is additional unallocated
39 moneys reserved for such organization pursuant to subparagraph
40 (A), the Franchise Tax Board may utilize those unallocated funds

1 to satisfy grant reservations for organizations with more than 10
2 full-time employees.

3 (G) The Franchise Tax Board may prescribe any regulations
4 necessary or appropriate to carry out the purposes of this paragraph,
5 including any regulations to prevent improper grant applications.

6 ~~(4) Any remaining moneys available in the Fund shall, upon~~
7 ~~appropriation by the Legislature, be allocated to fund and support~~
8 ~~activities and programs to assist local journalism in California.~~

9 SEC. 5. Part 10.9 (commencing with Section 21200) is added
10 to Division 2 of the Revenue and Taxation Code, to read:

11
12 PART 10.9. DATA EXTRACTION MITIGATION FEE LAW

13
14 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

15
16 21200. This part shall be known, and may be cited, as the Data
17 Extraction Mitigation Fee Law.

18 21201. For purposes of this part, the following definition shall
19 apply:

20 (a) “Annual gross receipts” means revenue from all sources,
21 before any expenses of any kind, computed according to generally
22 accepted accounting principles.

23 (b) (1) “Data extraction transaction” means a transaction that
24 satisfies both of the following requirements:

25 (A) A taxpayer sells user information or access to users to
26 advertisers.

27 (B) The taxpayer engages in a barter by providing services to
28 a user in full or partial exchange for the ability to display
29 advertisements to the user or collect data about the user.

30 (2) Gross receipts shall be deemed to be derived from data
31 extraction transactions if they derive from the sales of advertising
32 services on a digital interface, including, but not limited to
33 advertisements in the form of banner advertising, search engine
34 advertising, interstitial advertising, and other comparable
35 advertising services that use personal information about the people
36 to whom the ads are being served.

37 (3) “Data extraction transaction” does not include web hosting
38 services and domain registration.

39 (c) “Digital interface” means any type of software, including a
40 website, part of a website, or application that a user is able to

1 access, and includes any type of software or any part of an internet
2 website or application that a user is able to access.

3 (d) “News media entity” means an entity, however organized,
4 primarily engaged in the business of newsgathering, reporting, or
5 publishing or broadcasting articles or commentary about news,
6 current events, or culture.

7 (e) “Person” shall have the same meaning as that term is defined
8 in Section 19, except that it shall not include a news media entity.

9 (f) “User” means an individual or other person who accesses
10 the services of a taxpayer directly or indirectly with a digital
11 interface.

12 CHAPTER 2. IMPOSITION OF TAX

13
14
15 21202. (a) (1) Commencing in taxable years beginning on or
16 after January 1, ____, in addition to the taxes imposed under Part
17 10 (commencing with Section 17001) and Part 11 (commencing
18 with Section 23001), any person engaged in data extraction
19 transactions in the state shall pay annually to this state a tax equal
20 to 7.25 percent of gross receipts derived from data extraction
21 transactions in this state during the taxable year.

22 (2) Notwithstanding paragraph (1), the tax imposed by this
23 section shall not apply to any person with less than two billion five
24 hundred million dollars (\$2,500,000,000) in gross receipts derived
25 from data extraction transactions in this state in the taxable year.

26 (b) (1) Gross receipts derived from data extraction transactions
27 shall be apportioned based on the location of the user.

28 (2) (A) A data extraction transaction shall be deemed to be in
29 this state if the user is in the state. The Franchise Tax Board may
30 adopt necessary and appropriate regulations that apply other
31 presumptions, default rules and formulas in order to ensure that
32 the apportionment results, individually and in total, fairly reflect
33 data extraction activity in this state. The total amount of data
34 extraction transactions apportioned to California should
35 approximate the proportion of the economy of California to the
36 total economy of the United States as much as practicable.

37 (B) A user is located in the state if at any time it is reasonable
38 to conclude, based on the user data associated with the user,
39 including, but not limited to, the billing, delivery, or shipping
40 address, phone number area code, global satellite positioning data,

1 and internet protocol address data, that the user is located in the
2 state.

3 (C) Gross receipts derived from advertisements not generated
4 by a display to, or interaction with, a specific user, shall be
5 apportioned to the state based on the same fraction the person uses
6 to apportion gross receipts derived from advertisement generated
7 by a specific instance of display of an online targeted advertisement
8 or generated by a specific interaction with an online targeted
9 advertisement, where the targeted user is located in the state at the
10 time of the display or interaction.

11 (c) For purposes of this section, the apportionment factor is a
12 fraction, the numerator of which is the person's annual gross
13 receipts derived from data extraction transactions in this state and
14 the denominator is the person's annual gross receipts derived from
15 data extraction transactions in the United States.

16 (d) Annual gross receipts in this state includes the gross receipts
17 of all members that are part of the same unitary group if multiple
18 members of the group engage in data extraction transactions.
19 However, unitary group members shall be jointly and severally
20 liable for the tax. For purposes of this section, unitary group
21 members shall also include the taxpayer and any other partnership
22 or limited liability company doing business in this state and
23 required to file a return, in which the same persons own, directly
24 or indirectly, more than 10 percent of the capital interests or profit
25 interests.

26 CHAPTER 3. ADMINISTRATION

27
28
29 21203. The Franchise Tax Board shall administer and collect
30 the tax imposed under this part pursuant to Part 10.2 (commencing
31 with Section 18401), including, for taxable years beginning on or
32 after January 1, ____, the provisions relating to estimated
33 payments.

34 21204. (a) The Franchise Tax Board may prescribe rules,
35 guidelines, procedures, or other guidance to carry out the purposes
36 of this part. Chapter 3.5 (commencing with Section 11340) of Part
37 1 of Division 3 of Title 2 of the Government Code shall not apply
38 to any rule, guideline, or procedure prescribed by the Franchise
39 Tax Board pursuant to this section.

(b) (1) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations necessary to determine the location of a user and proper apportionment of revenue.

(2) The adoption of any regulations pursuant to paragraph (1) may be adopted as emergency regulations 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) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

SEC. 6. Section 23622 is added to the Revenue and Taxation Code, to read:

23622. (a) (1) For each taxable year beginning on or after January 1, 2024, and before January 1, 2029, there shall be allowed a credit against the “tax,” as defined in Section 23036, to a qualified taxpayer that pays or incurs costs for qualified services and that receives a tentative credit reservation.

(2) ~~The~~ Except as provided in paragraph (5), the credit allowed by this section shall be the sum of both of the following amounts:

(A) The applicable amount calculated as follows:

(i) For a qualified taxpayer with fewer than 10 employees on the first day of the taxable year that satisfies the requirements of paragraph (3), the sum of the following:

(I) Forty percent of the qualified wages paid or incurred for all qualified full-time employees.

(II) Ten percent of qualified wages paid or incurred to qualified full-time employees hired on or after the effective date of the act adding this section, and before January 1, 2029, if the qualified taxpayer has a net increase in employment in the taxable year.

(ii) For a qualified taxpayer with fewer than 10 employees on the first day of the taxable year that does not satisfy the requirements of paragraph (3), the sum of the following:

1 (I) Thirty-five percent of the qualified wages paid or incurred
2 for all qualified full-time employees.

3 (II) Ten percent of qualified wages paid or incurred to qualified
4 full-time employees hired on or after the effective date of the act
5 adding this section, and before January 1, 2029, if the qualified
6 taxpayer has a net increase in employment in the taxable year.

7 (iii) For a qualified taxpayer with 10 or more employees on the
8 first day of the taxable year that satisfies the requirements of
9 paragraph (3), the sum of the following:

10 (I) Thirty percent of the qualified wages paid or incurred for all
11 qualified full-time employees.

12 (II) Ten percent of qualified wages paid or incurred to qualified
13 full-time employees hired on or after the effective date of the act
14 adding this section, and before January 1, 2029, if the qualified
15 taxpayer has a net increase in employment in the taxable year.

16 (iv) For a qualified taxpayer with 10 or more employees on the
17 first day of the taxable year that does not satisfy the requirements
18 of paragraph (3), the sum of the following:

19 (I) Twenty-five percent of the qualified wages paid or incurred
20 for all qualified full-time employees.

21 (II) Ten percent of qualified wages paid or incurred to qualified
22 full-time employees hired on or after the effective date of the act
23 adding this section, and before January 1, 2029, if the qualified
24 taxpayer has a net increase in employment in the taxable year.

25 (B) Twenty percent of costs incurred to acquire freelance content
26 produced by individuals performing qualified services that is
27 subsequently published or broadcast by the qualified taxpayer.

28 (3) For purposes of paragraph (2), a qualified taxpayer satisfies
29 the requirements of this paragraph if the taxpayer provides their
30 qualified full-time employees both of the following:

31 (A) Employer-provided group health insurance.

32 (B) Employer-provided retirement benefits or pension benefits,
33 including stock in the employer under employee stock ownership
34 plans where the employer pays for the full value of the stock.

35 (4) If a taxpayer is eligible for a credit calculated pursuant to
36 clause (iii) or (iv) of subparagraph (A) of paragraph (2) for the
37 taxable year beginning on or after January 1, 2024, and before
38 January 1, 2025, the taxpayer may not receive a credit calculated
39 pursuant to clause (i) or (ii) of subparagraph (A) of paragraph (2)
40 for the following two taxable years.

(5) For purposes of calculating the amount of the credit allowed by this section for a qualified small publication, the percentages specified in subparagraphs (A) and (B) of paragraph (2) shall be increased by five.

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

(1) “Disqualified organization” means any of the following:

(A) Any organization exempt from tax under Chapter 4 (commencing with Section 23701), except for an organization exempt under Section 23701d.

(B) Any organization described in Section 527 of the Internal Revenue Code.

(C) Any organization that is owned or controlled, directly or indirectly, by one or more organizations described in subparagraph (A) or (B).

(2) “Eligible local news organization” means, with respect to any taxable year, any person or entity with primary circulation or distribution in the state who meets all of the following requirements:

(A) Publishes ~~four~~ 24 or more qualifying publications distributed in the state during the taxable year.

(B) Is not a disqualified organization.

(C) Does not derive more than 50 percent of its gross receipts, less returns and allowances, from disqualified organizations in the taxable year.

(3) “Local community” means, with respect to any qualifying broadcast station or qualifying publication, a geographically contiguous area in the state that does not exceed the boundaries of:

(A) In the case of a qualifying broadcast station, the area in the state for which the qualifying broadcast station is licensed to serve by the Federal Communications Commission under Section 307 of the federal Communications Act of 1934 (Public Law 73-416).

(B) (i) In the case of a qualifying publication, the following:

(I) If the qualifying publication is primarily distributed in a metropolitan or micropolitan statistical area in the state, as defined by the federal Office of Management and Budget, the metropolitan or micropolitan statistical area in which the qualifying publication is primarily distributed.

1 (II) If the qualifying publication is not primarily distributed in
2 a metropolitan or micropolitan statistical area, the county in which
3 the qualifying publication is primarily distributed.

4 (ii) For purposes of this subparagraph, in the case of a qualifying
5 publication that is a digital publication, the qualifying publication
6 shall be considered primarily distributed in the area where the
7 publication is primarily consumed.

8 (4) “Qualified broadcast station” means an employer who meets
9 all of the following requirements:

10 (A) Owns or operates a broadcast station, as defined in Section
11 3 of the federal Communications Act of 1934 (Public Law 73-416),
12 in the state.

13 (B) Is not a disqualified organization.

14 (C) Derives no more than 50 percent of its gross receipts, less
15 returns and allowances, from disqualified organizations in the
16 taxable year in which the credit is claimed.

17 (5) “Qualified full-time employee” means an individual who
18 meets both of the following requirements:

19 (A) ~~Provides~~—(i) *Except as provided in clause (ii),* qualified
20 services for an average of not less than 35 hours per week for each
21 week the employee is employed by the qualified taxpayer, or is a
22 salaried employee and was paid compensation during the taxable
23 year for full-time employment, within the meaning of Section 515
24 of the Labor Code, by the qualified taxpayer.

25 (ii) *For purposes of a qualified small publication, provides*
26 *qualified services for an average of not less than 30 hours per*
27 *week for each week the employee is employed by the qualified*
28 *taxpayer who is a qualified small publication, or is a salaried*
29 *employee and was paid compensation during the taxable year for*
30 *full-time employment, within the meaning of Section 515 of the*
31 *Labor Code, by the qualified taxpayer who is a qualified small*
32 *publication.*

33 (B) Resides within the state.

34 (6) “Qualified services” means gathering, preparing, recording,
35 directing the recording of, producing, collecting, photographing,
36 writing, editing, reporting, presenting, or publishing original local
37 community news for dissemination to the local community.

38 (7) “Qualified small publication” means an eligible local news
39 organization or a qualified broadcast station with five or fewer
40 full-time employees throughout the taxable year.

1 ~~(7)~~

2 (8) “Qualified taxpayer” means an eligible local news
3 organization or a qualified broadcast station in the state.

4 ~~(8)~~

5 (9) “Qualified wages” means those wages subject to withholding
6 pursuant to Division 6 (commencing with Section 13000) of the
7 Unemployment Insurance Code. For purposes of subparagraphs
8 (B) and (C) of paragraph (2) of subdivision (a), “qualified wages”
9 also means only those wages paid or incurred beginning with the
10 first day the qualified full-time employee provides qualified
11 services to the qualified taxpayer.

12 ~~(9)~~

13 (10) “Qualifying publication” means any print or digital
14 publication that satisfies all of the following:

15 (A) The primary purpose of the publication is to serve a local
16 community in the state by providing local news.

17 (B) The publication was published in the state during the taxable
18 year and the prior taxable year.

19 (C) The publication is covered by media liability insurance.

20 (c) (1) For purposes of this section, the following shall apply:

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

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

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

32 (2) For purposes of this subdivision, “controlled group of
33 corporations” means a controlled group of corporations as defined
34 in Section 1563(a) of the Internal Revenue Code, except that:

35 (A) “More than 50 percent” shall be substituted for “at least 80
36 percent” each place it appears in Section 1563(a)(1) of the Internal
37 Revenue Code.

38 (B) The determination shall be made without regard to
39 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
40 Revenue Code.

1 (3) Rules similar to the rules provided in Sections 46(e) and
2 46(h) of the Internal Revenue Code, as in effect on November 4,
3 1990, shall apply to both of the following:

4 (A) An organization to which Section 593 of the Internal
5 Revenue Code applies.

6 (B) A regulated investment company or a real estate investment
7 trust subject to taxation under this part.

8 (d) In case the credit allowed by this section exceeds the “tax,”
9 the excess shall be credited against other amounts due, if any, and
10 the balance, if any, shall be paid from the Tax Relief and Refund
11 Account and refunded to the taxpayer.

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

20 (2) (A) The Franchise Tax Board may prescribe any regulations
21 necessary or appropriate to carry out the purposes of this section,
22 including any regulations to prevent improper claims from being
23 filed.

24 (B) The adoption of any regulations pursuant to subparagraph
25 (A) may be adopted as emergency regulations in accordance with
26 the rulemaking provisions of the Administrative Procedure Act
27 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
28 Division 3 of Title 2 of the Government Code) and shall be deemed
29 an emergency and necessary for the immediate preservation of the
30 public peace, health and safety, or general welfare. Notwithstanding
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
32 3 of Title 2 of the Government Code, these emergency regulations
33 shall not be subject to the review and approval of the Office of
34 Administrative Law. The regulations shall become effective
35 immediately upon filing with the Secretary of State, and shall
36 remain in effect until revised or repealed by the Franchise Tax
37 Board.

38 (f) (1) Any deduction otherwise allowed under this part for
39 qualified wages shall be reduced by the amount of the credit
40 allowed under this section.

(2) The credit allowed by this section shall be in lieu of any other credit that the qualified taxpayer may otherwise be allowed under this part with respect to amounts taken into account in calculating the credit allowed by this section.

(3) The credit allowed under this section must be claimed on a timely filed original return and when the qualified taxpayer has received a tentative credit reservation.

(4) If the qualified taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(g) The net increase in full-time employees of a qualified taxpayer shall be determined as follows:

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

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

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

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

(h) (1) The total aggregate amount of the credit that may be allocated by credit reservations per calendar year to all qualified taxpayers pursuant to this section and Section 17053.76 shall not exceed ____, plus the unallocated credit amount, if any, from the preceding calendar year.

(2) (A) To be eligible for the credit allowed by this section, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board, in the form and manner prescribed by the Franchise Tax Board.

(B) To obtain a credit reservation, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board.

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

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

3 (B) Subject to the annual cap established as provided in
4 paragraph (1), allocate an aggregate amount of credits under this
5 section and Section 17053.76, and allocate any carryover of
6 unallocated credits from the prior year. If credit reservation credit
7 requests exceed the amount in paragraph (1), the Franchise Tax
8 Board shall reduce the amount of credit on a proportional basis,
9 and notify qualified taxpayers of the revised credit ~~amount~~. *amount,*
10 *except that the Franchise Tax Board shall not reduce any credit*
11 *claimed by a qualified taxpayer who is a qualified small publication*
12 *unless credit reservation requests from qualified taxpayers who*
13 *are qualified small publications exceed the annual cap established*
14 *by paragraph (1).*

15 (C) *Prioritize processing credit reservation requests and credit*
16 *claims from qualified small publications.*

17 (i) (1) Except as provided in paragraph (2), this section shall
18 remain in effect only until December 1, 2029, and as of that date
19 is repealed.

20 (2) Notwithstanding paragraph (1) of subdivision (a), this section
21 shall continue to be operative for taxable years beginning on or
22 after January 1, 2029, but only with respect to qualified full-time
23 employees who commenced employment with a qualified taxpayer
24 in a taxable year beginning before January 1, 2029, and in no case
25 shall the wages of a qualified full-time employee be considered in
26 determining any credit under this section for taxable years
27 beginning on or after January 1, 2034.

28 SEC. 7. Section 24380 is added to the Revenue and Taxation
29 Code, to read:

30 24380. For taxable years beginning on or after January 1, ____,
31 a deduction shall be allowed for the amount of any taxes paid
32 pursuant to Part 10.8 (commencing with Section 21100).

33 SEC. 8. *The Legislature hereby finds and declares that the*
34 *funding for fellowship programs authorized by Section 19608 of*
35 *the Revenue and Taxation Code, as added by this act, serves the*
36 *public purpose of informing, involving, and championing*
37 *communities that often lack coverage from mainstream media in*
38 *order to promote social inclusion, encourage civic participation,*
39 *and address disparities among all marginalized groups, and does*

1 *not constitute a gift of public funds within the meaning of Section*
2 *6 of Article XVI of the California Constitution.*

3 ~~SEC. 8.~~

4 SEC. 9. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 ~~SEC. 9.~~

14 SEC. 10. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the California Constitution and shall
17 go into immediate effect. The facts constituting the necessity are:

18 In order to prevent imminent closures of more vital newspapers
19 and other local news organizations, it is necessary for this act to
20 take immediate effect.