

AMENDED IN SENATE MAY 3, 2010
AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 974

Introduced by Senator Steinberg
(Coauthor: Senator Hancock Coauthors: Senators Hancock and Romero)

February 8, 2010

An act to add Part 38 (commencing with Section 64200) to Division 4 of Title 2 of the Education Code, and to amend Sections 17053.74 and 23634 of, and to add Sections 6902.6, 17057.6, and ~~23610.5~~ 23610.6 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Steinberg. Income and corporations tax: hiring and career-credit. *credits*.

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

This bill, in accordance with legislative findings contained in this bill and for taxable years beginning on or after January 1, 2011, would, for a ~~business entity~~ *qualified taxpayer, as defined*, that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that allocated by the ~~California Tax Allocation Committee~~ *State Department of Education*.

This bill would, for taxable years beginning on or after January 1, 2011, in lieu of these credits authorized under the Personal Income Tax Law and the Corporation Tax Law, allow a credit against qualified state sales and use taxes, as provided. This bill would impose specified duties on the ~~California Tax Allocation Committee~~ *State Department of*

Education, the Franchise Tax Board, and the State Board of Equalization, in administering the credits.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, subject to specific criteria. Qualified employees includes, for purposes of the credit, an ex-offender, as defined. *Existing law requires a taxpayer to obtain, from specified agencies, a certification providing that a qualified employee meets the requirements of the credit.*

This bill would, *for taxable years beginning on or after January 1, 2011*, revise the definition of “qualified employee” for this purpose, by providing that an ex-offender includes an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony or misdemeanor punishable by incarceration but placed on probation without a finding of guilt, with specified exclusions. *This bill would also, for taxable years beginning on or after January 1, 2011, revise the definition of “qualified employee” by removing, as an element of eligibility as a qualified employee, residency in a targeted employment or targeted tax area. Additionally, this bill would require taxpayers to apply for, and obtain, the certification of a qualified employee within 21 days of the date of hire of the qualified employee.* This bill would also make technical, nonsubstantive changes to remove obsolete references in the credit provisions.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Part 38 (commencing with Section 64200) is
2 added to Division 4 of Title 2 of the Education Code, to read:

3

4 PART 38. CAREER PATHWAYS INVESTMENT CREDIT

5

6 64200. (a) The Legislature finds and declares the following:

7 (1) The deep economic recession that has gripped California
8 requires a timely response and strategic investments to educate

1 and prepare the workforce that will help fuel the next stage of the
2 state's economic growth.

3 (2) The swift recovery of the California economy faces an
4 obstacle in the high numbers of young people dropping out of the
5 state's middle and high schools. Longitudinal data show that fewer
6 than 70 percent of 9th graders in California graduate from high
7 school in four years. According to the State Department of
8 Education, some 85,000 middle and high school pupils are
9 abandoning secondary schools annually.

10 (3) If the dropout crisis is left unchecked, demographic trends
11 suggest that the rate of future dropouts will increase. The Public
12 Policy Institute of California predicts there will be twice as many
13 high school dropouts in California in 2025 as there will be jobs to
14 support them.

15 (4) According to a 2007 study by the California Dropout
16 Research Project, each cohort of dropouts costs California more
17 than \$46 billion in total economic losses over the lifetimes of those
18 dropouts.

19 (5) The fastest growing occupations in the coming years are
20 expected to be those that require scientific, technical, engineering,
21 or math (STEM) skills, such as jobs in biotechnology, digital media
22 arts, green technology, or computer-related and health-related
23 fields.

24 (6) A 2006 poll of at-risk California 9th and 10th graders by
25 Peter D. Hart Research Associates found that 6 in 10 pupils were
26 not motivated to succeed in school. Of those pupils, more than 90
27 percent said they would be more engaged in their education if
28 classes helped them acquire skills and knowledge relevant to future
29 careers.

30 (7) Comprehensive programs that link challenging academics
31 with demanding career and technical education create engaging
32 pathways to further education, advanced training, and productive
33 jobs in high opportunity careers. They keep students on track to a
34 diploma, postsecondary credentials, and lasting career success.

35 (8) New research from the Public Policy Institute of California
36 suggests that the state's enterprise zone tax credit program has not
37 significantly increased job creation or the employment of
38 hard-to-hire individuals, as was intended.

39 (9) Two aspects of the enterprise zone program that have
40 produced an especially poor return on investment, Targeted

1 Employment Areas (TEA) and retroactive vouchering, should be
2 phased out in favor of fiscal incentives that enhance workforce
3 development for the jobs of the future and that have a beneficial
4 impact on high school graduation rates.

5 (b) It is the intent of the Legislature to do the following:

6 (1) Evaluate the state's tax expenditure investments as rigorously
7 as it evaluates the state's spending programs.

8 (2) Establish fiscal incentives, such as tax credits, that encourage
9 California businesses and industry to enter into partnerships with
10 schools that strengthen middle and high school education statewide.
11 These partnerships will connect pupils and teachers to real-world
12 experience that provides sustained exposure to applied academics,
13 skill development, work-related education, and potential future
14 employers. This experience will keep students engaged and on
15 track to graduation, further education, and productive careers.

16 (c) As used in this section, "tax expenditure" means a credit,
17 deduction, exclusion, exemption, or any other tax benefit as may
18 be provided for by state law.

19 64201. For purposes of this part:

20 ~~(a) "Applicant" means a local educational agency that applies~~
21 ~~to the committee for either an allocation of a portion of the career~~
22 ~~pathways investment credit ceiling for the current taxable year or~~
23 ~~for a reservation of a portion of the career pathways investment~~
24 ~~credit ceiling for a subsequent taxable year.~~

25 ~~(b)~~

26 (a) "Authentic application" means an activity in the context of
27 a middle or high school course that requires pupils to work actively
28 with academic and technical concepts, facts, and skills in a realistic,
29 work-like setting that emulates the problems encountered by
30 professionals and the practices they use to address them. These
31 applications typically require pupils to examine a task from a
32 variety of perspectives, to draw upon multiple resources, to
33 collaborate with others, and to accomplish tasks and projects by
34 working in teams rather than individually.

35 ~~(e)~~

36 (b) "Career pathways investment credit ceiling" means the
37 aggregate amount of credit that may be annually allocated by the
38 ~~committee department~~ pursuant to Sections 17057.6 and ~~23610.5~~
39 ~~23610.6~~ of the Revenue and Taxation Code.

1 ~~(d) “Committee” means the California Tax Credit Allocation~~
2 ~~Committee.~~

3 (c) *“Department” means the State Department of Education.*

4 ~~(e)~~

5 (d) “Middle school or high school programs that create career
6 pathways” means programs that support the following:

7 (1) High school pathways programs delivered through high
8 schools, regional occupation centers or programs, California
9 Partnership Academies and other career academies, alternative
10 education programs, including continuation schools and programs
11 administered by county offices of education, or adult education
12 programs, that integrate academic and technical learning to prepare
13 pupils for both postsecondary education and careers in high-growth
14 or high-need sectors of the economy. These programs include core
15 academic courses emphasizing authentic applications, sequences
16 or clusters of three or more courses that align with the State Board
17 of Education approved career technical education standards and
18 frameworks that also integrate key academic concepts and skills,
19 work-based learning opportunities, additional services like
20 counseling or supplementary instruction in reading, writing, and
21 mathematics. These programs shall also:

22 (A) Focus on occupations requiring comprehensive skills in
23 leading to high entry-level wages or the possibility of significant
24 wage increases after a demonstrated amount of time at the position.

25 (B) Provide prerequisite courses that are needed to enter
26 apprenticeships, or postsecondary vocation certificate or degree
27 programs. Where possible, sequenced courses shall be articulated
28 with, or linked to, postsecondary certificate and degree programs
29 in the region.

30 (C) Offer as many courses as possible that have been approved
31 by the University of California as courses meeting the “A-G”
32 admissions requirements.

33 (2) Curriculum and professional development.

34 (3) Middle school career exploration activities.

35 (4) Externship opportunities that expose middle school and high
36 school teachers to the skills and competencies that pupils need for
37 successful employment in high-growth sectors of the California
38 economy.

39 (5) Active engagement by business and industry in pathway
40 design and implementation, work-based learning, assessment of

1 student work, and other aspects of effective preparation for success
2 in further postsecondary education and careers.

3 (f)

4 (e) “Qualified taxpayer” means a business entity that enters into
5 a contract or memorandum of understanding with ~~an applicant~~ *a*
6 *local educational agency* to provide career technical education
7 that connects pupils to real-world experience and provides
8 sustained exposure to applied academics, skill development,
9 work-related education, and potential future employment.

10 64202. ~~On and after _____, the committee~~ *For taxable years*
11 *beginning on or after January 1, 2011, the department* shall
12 determine and allocate the career pathways investment credit
13 ceiling. The committee may reserve a portion of anticipated career
14 pathways investment credit ceiling for subsequent taxable years.
15 For purposes of this section, ~~the committee~~ *department* shall do
16 all of the following:

17 (a)

18 (1) Allocate the career pathways investment credit ceiling on a
19 regular basis consisting of two or more periods in a calendar year
20 in which applications may be filed and considered.

21 (2) *The career pathways investment credit shall be allocated to*
22 *a qualified taxpayer for application over a five-year period. If a*
23 *qualified taxpayer is allocated a portion of the career pathways*
24 *investment credit, the qualified taxpayer may apply for another*
25 *allocation in the sixth year after the first allocation of the credit.*

26 (b) (1) Establish *a procedure for qualified taxpayers to file with*
27 *the department a written application for the allocation of the tax*
28 *credit, establish application filing deadlines, the maximum amount*
29 *of career pathways investment credit ceiling that the* ~~committee~~
30 *department* may allocate for that period, and the approximate date
31 on which the allocations are made.

32 (2) ~~The committee~~ *department* may contract with other entities
33 to aid in the processing and review of applications.

34 (c) (1) Give priority in allocating tax credits to the following:

35 (A) ~~Applicants~~ *Qualified taxpayers that have entered into a*
36 *contract or memorandum of understanding with local educational*
37 *agencies in communities that have an unemployment rate higher*
38 *than the statewide unemployment rate, as determined by the United*
39 *States Census, and a high school graduation rate lower than the*
40 *statewide high school graduation rate, as determined by the*

~~Department of Education~~ *department* using the California Longitudinal Pupil Achievement Data System.

(B) ~~Applicants~~ *Qualified taxpayers that have entered into a contract or memorandum of understanding with local educational agencies* with proportions of private funding support that exceed the one-to-one match requirement described in paragraph (1) of subdivision (e).

(C) ~~Applicants~~ *Qualified taxpayers that have entered into a contract or memorandum of understanding with local educational agencies* that are articulated with postsecondary certificate and degree programs in their region.

(2) To the maximum extent practicable, subject to paragraph (1), give priority in allocating career pathways investment credits to ~~applicants~~ *qualified taxpayers* serving socioeconomically diverse student populations and on a geographically equitable basis.

(3) ~~The committee~~ *department* shall not give priority to any ~~applicant~~ *qualified taxpayer* by virtue of the date of submission of its application, except to allocate credits where two or more ~~applicants~~ *qualified taxpayers* have the same rating.

(d) Only allocate the career pathways investment credit ceiling to ~~an applicant that enters a~~ *qualified taxpayer that agrees to enter* into an enforceable contract or memorandum of understanding with the ~~committee~~ *department* to comply with the requirements of this part, Sections 17057.6 and ~~23610.5~~ *23610.6* of the Revenue and Taxation Code, any applicable state laws, and any additional requirements the ~~committee~~ *department* deems necessary or appropriate to serve the purposes of this part. The contract or memorandum of understanding shall also provide for legal action to obtain specified performance or monetary damages for breach of contract and shall require regular programmatic audits.

(e) Adopt allocation criteria that awards credits to ~~applicants~~ *qualified taxpayers* that demonstrate ~~all of the following that either the qualified taxpayer or the local educational agency meets the following criteria:~~

(1) At least a one-to-one match of private to public investment in middle school and high school programs that create career pathways or similar programs.

(2) The effectiveness of the career pathway program toward preparing students for productive, high-wage employment in

1 growing or high-need sectors of the California economy.

2 Effectiveness criteria shall include:

3 (A) Pathway completion rates.

4 (B) High school graduation rates.

5 (C) Percentages of students attaining an industry certification.

6 (D) Percentages of students transitioning successfully to

7 postsecondary education.

8 (E) Employment and earnings after high school.

9 (3) The level of the ~~applicant's~~ *qualified taxpayer's* investment

10 in, oversight of, and ability to leverage and sustain current career

11 pathways programs and current career technical education

12 programs.

13 (f) Develop and provide forms for the purposes of informing

14 potential ~~applicants~~ and *qualified taxpayers* of the purposes of this

15 part.

16 (g) (1) Certify to each ~~applicant~~ *qualified taxpayer* the amount

17 of the career pathways credit ceiling allocated to it for the taxable

18 ~~year, or the reserved amount for the succeeding year year. The~~

19 *certificate shall include the amount of the credit allocation that*

20 *may be distributed and applied by the qualified taxpayer against*

21 *tax liability for each taxable year of the five-year credit allocation*

22 *period.*

23 (2) ~~An applicant~~ *The department shall provide a copy of the*

24 ~~certification provided by the committee to the~~ *to the qualified*

25 *taxpayer.*

26 (h) *The department may, in its discretion, consult with the*

27 *Treasurer and the California Tax Credit Allocation Committee*

28 *regarding the allocation of tax credits. If a request for consultation*

29 *is made, the Treasurer and the California Tax Credit Allocation*

30 *Committee shall aid the department.*

31 (i) *Establish audit requirements. The department may share*

32 *information established during an audit with the Franchise Tax*

33 *Board.*

34 64203. ~~On and after _____, the committee shall, in consultation~~

35 ~~with the State Department of Education, For taxable years~~

36 ~~beginning on or after January 1, 2011, the department shall~~

37 ~~develop and provide forms for use by applicants~~ *qualified taxpayers*

38 ~~and adopt uniform procedures for submission and review of~~

39 ~~applications. The application shall include, but not be limited to,~~

40 ~~the following:~~

1 (a) *A copy of the contract or memorandum of understanding*
2 *between the applicant and the taxpayer qualified taxpayer and the*
3 *local educational agency that includes, but is not limited to, the*
4 *following:*

5 (1) A clear and comprehensive plan for each middle school or
6 high school program that creates career pathways.

7 (2) A description of the nature and value of the *qualified*
8 taxpayer's support for career exploration activities, curriculum
9 and professional development programs, and middle school or
10 high school programs that create career pathways that integrate
11 academic and technical learning to prepare pupils for both college
12 and careers. The support may include any of the following:

13 (A) Equipment or instructional materials.

14 (B) Employees to provide instruction, in partnership with
15 credentialed teachers employed by the school district, at the
16 schoolsite.

17 (C) Opportunities for pupils to be mentored by, or to shadow,
18 employees at a partnering private entity.

19 (D) Paid or unpaid internships.

20 (E) Paid jobs.

21 (F) Teacher externships.

22 (G) *Contributions to programs administered by postsecondary*
23 *institutions that provide support to middle or high school programs*
24 *that create career pathways. This support may include, but shall*
25 *not be limited to, teacher training, curriculum development, and*
26 *other forms of technical assistance.*

27 (b) Details about the strength and relevance of the education
28 plan to the needs of industry for qualified technical employees
29 applicable to the economic development needs of the region in
30 which the local education agency and partnering private entity are
31 located.

32 (c) Projections of program participant enrollment.

33 (d) The method by which accountability for program participant
34 enrollments and outcomes will be maintained. Outcomes shall
35 include the criteria listed in paragraph (2) of subdivision (e) of
36 Section 64202.

37 (e) Any other information deemed relevant by the ~~committee~~
38 *department.*

39 64204. (a) ~~The committee~~ *department* may charge a fee for
40 the submission of applications for allocations of the current taxable

1 year's career pathways investment credit ceiling, reservation of
2 the following year's career pathways investment credit ceiling, ~~or~~
3 ~~both and for monitoring the compliance of qualified taxpayers~~
4 ~~receiving a credit under this part.~~ If the ~~committee department~~
5 chooses to impose a fee, it shall establish and charge fees in an
6 amount which it determines are reasonably sufficient to cover the
7 costs of the ~~committee department~~, the State Board of Equalization,
8 and the Franchise Tax Board in carrying out the administrative
9 responsibilities required by this part.

10 (b) Fees collected pursuant to this subdivision shall be deposited
11 in the ~~Tax Credit Allocation~~ *Career Pathways Investment Credit*
12 *Fee Account*, which is hereby created in the State Treasury, and
13 shall be available, upon appropriation by the Legislature to cover
14 the administrative costs of the ~~committee department~~, the State
15 Board of Equalization, and the Franchise Tax Board in
16 administering this part.

17 (c) Until the time sufficient fee revenue is received by the
18 ~~committee department~~ to fully cover the administrative costs of
19 administering this part, the ~~committee department~~ may borrow
20 moneys as may be required for the purposes of meeting necessary
21 administrative expenses of the ~~committee department~~ in
22 administering this part. Any loan made to the ~~committee~~
23 ~~department~~ pursuant to this section shall be repayable solely from
24 the moneys appropriated to the ~~committee from the Tax Credit~~
25 ~~Allocation Fee Account department~~ and shall not constitute a
26 general obligation for which the faith and credit of the state are
27 pledged.

28 64205. *The department may prescribe rules and regulations*
29 *to carry out the purposes of this part, including any rules and*
30 *regulations necessary to establish procedures, processes,*
31 *requirements, and rules identified or required to implement this*
32 *part, including any rules and regulations necessary to establish a*
33 *fee schedule necessary to offset the costs of administering this*
34 *part.*

35 SEC. 2. Section 6902.6 is added to the Revenue and Taxation
36 Code, to read:

37 6902.6. (a) A qualified taxpayer may, in lieu of claiming the
38 credit allowed by Section 17057.6 or ~~23610.5~~ 23610.6, make an
39 irrevocable election to apply the credit amount against sales tax

1 reimbursement paid and use taxes paid to a retailer by the qualified
2 taxpayer in accordance with this section.

3 (b) For purposes of this section:

4 (1) “Credit amount” means an amount equal to the tax credit
5 amount that would otherwise have been allowed to a qualified
6 taxpayer pursuant to Section 17057.6 or ~~23610.5~~ 23610.6 but for
7 the election made pursuant to this section.

8 (2) “Qualified taxpayer” means a person who is a qualified
9 taxpayer within the meaning of subdivision (b) of Section 17057.6
10 or ~~23610.5~~ 23610.6.

11 (c) (1) A qualified taxpayer or affiliate shall submit to the board
12 an irrevocable election, in a form as prescribed by the board, which
13 shall include, but not be limited to, the following:

14 (A) The credit amount.

15 (B) The amount of sales tax reimbursement and use taxes paid
16 ~~on or before January 1, 2011.~~ *during the taxable year for which*
17 *the credit is claimed.*

18 (C) A copy of the certification issued by the ~~local educational~~
19 ~~agency~~ *State Department of Education* to the qualified taxpayer
20 under Section 64202 of the Education Code.

21 (2) The election shall be filed on or before the date on which
22 the qualified taxpayer would first be allowed to claim a credit
23 pursuant to Section 17057.6 or ~~23610.5~~ 23610.6 on its tax return.

24 (d) (1) ~~The claimant~~ *qualified taxpayer* may elect to obtain a
25 refund of sales and use taxes paid during the period described in
26 subparagraph (B) of paragraph (1) of subdivision (c). If the
27 ~~claimant~~ *qualified taxpayer* elects to obtain a refund of sales and
28 use taxes, the ~~claimant~~ *qualified taxpayer* shall file a claim for
29 refund with the irrevocable election described in subdivision (a).
30 The refund amount shall not exceed the credit amount.

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

33 (3) If the ~~claimant~~ *qualified taxpayer* does not elect to obtain a
34 refund or in the case where the credit amount exceeds the amount
35 of its claim for refund for the sales and use taxes, the ~~claimant~~
36 *qualified taxpayer* may offset any remaining credit amount against
37 the sales and use taxes until the credit is exhausted.

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

1 (f) The board shall provide an annual listing to the ~~California~~
2 ~~Tax Credit Allocation Committee~~ *State Department of Education*
3 and the Franchise Tax Board, in a form and manner mutually
4 agreed upon, of the qualified taxpayers ~~who~~ *that*, during the year,
5 have made an irrevocable election pursuant to this section and the
6 credit amount claimed by each qualified taxpayer.

7 SEC. 3. Section 17053.74 of the Revenue and Taxation Code
8 is amended to read:

9 17053.74. (a) There shall be allowed a credit against the “net
10 tax” (as defined in Section 17039) to a taxpayer who employs a
11 qualified employee in an enterprise zone during the taxable year.
12 The credit shall be equal to the sum of each of the following:

13 (1) Fifty percent of qualified wages in the first year of
14 employment.

15 (2) Forty percent of qualified wages in the second year of
16 employment.

17 (3) Thirty percent of qualified wages in the third year of
18 employment.

19 (4) Twenty percent of qualified wages in the fourth year of
20 employment.

21 (5) Ten percent of qualified wages in the fifth year of
22 employment.

23 (b) For purposes of this section:

24 (1) “Qualified wages” means:

25 (A) (i) Except as provided in clause (ii), that portion of wages
26 paid or incurred by the taxpayer during the taxable year to qualified
27 employees that does not exceed 150 percent of the minimum wage.

28 (ii) For up to 1,350 qualified employees who are employed by
29 the taxpayer in the Long Beach Enterprise Zone in aircraft
30 manufacturing activities described in Codes 3721 to 3728,
31 inclusive, and Code 3812 of the Standard Industrial Classification
32 (SIC) Manual published by the United States Office of
33 Management and Budget, 1987 edition, “qualified wages” means
34 that portion of hourly wages that does not exceed 202 percent of
35 the minimum wage.

36 (B) Wages received during the 60-month period beginning with
37 the first day the employee commences employment with the
38 taxpayer. Reemployment in connection with any increase, including
39 a regularly occurring seasonal increase, in the trade or business

1 operations of the taxpayer does not constitute commencement of
2 employment for purposes of this section.

3 (C) Qualified wages do not include any wages paid or incurred
4 by the taxpayer on or after the zone expiration date. However,
5 wages paid or incurred with respect to qualified employees who
6 are employed by the taxpayer within the enterprise zone within
7 the 60-month period prior to the zone expiration date shall continue
8 to qualify for the credit under this section after the zone expiration
9 date, in accordance with all provisions of this section applied as
10 if the enterprise zone designation were still in existence and
11 binding.

12 (2) “Minimum wage” means the wage established by the
13 Industrial Welfare Commission as provided for in Chapter 1
14 (commencing with Section 1171) of Part 4 of Division 2 of the
15 Labor Code.

16 (3) “Zone expiration date” means the date the enterprise zone
17 designation expires, is no longer binding, or becomes inoperative.

18 (4) (A) “Qualified employee” means an individual who meets
19 all of the following requirements:

20 (i) At least 90 percent of whose services for the taxpayer during
21 the taxable year are directly related to the conduct of the taxpayer’s
22 trade or business located in an enterprise zone.

23 (ii) Performs at least 50 percent of his or her services for the
24 taxpayer during the taxable year in an enterprise zone.

25 (iii) Is hired by the taxpayer after the date of original designation
26 of the area in which services were performed as an enterprise zone.

27 (iv) Is any of the following:

28 (I) Immediately preceding the qualified employee’s
29 commencement of employment with the taxpayer, was a person
30 eligible for services under the federal Job Training Partnership
31 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
32 or is eligible to receive, subsidized employment, training, or
33 services funded by the federal Job Training Partnership Act, or its
34 successor.

35 (II) Immediately preceding the qualified employee’s
36 commencement of employment with the taxpayer, was a person
37 eligible to be a voluntary or mandatory registrant under the Greater
38 Avenues for Independence Act of 1985 (GAIN) provided for
39 pursuant to Article 3.2 (commencing with Section 11320) of

1 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
2 Code, or its successor.

3 (III) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was an
5 economically disadvantaged individual 14 years of age or older.

6 (IV) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a dislocated
8 worker who meets any of the following:

9 (ia) Has been terminated or laid off or who has received a notice
10 of termination or layoff from employment, is eligible for or has
11 exhausted entitlement to unemployment insurance benefits, and
12 is unlikely to return to his or her previous industry or occupation.

13 (ib) Has been terminated or has received a notice of termination
14 of employment as a result of any permanent closure or any
15 substantial layoff at a plant, facility, or enterprise, including an
16 individual who has not received written notification but whose
17 employer has made a public announcement of the closure or layoff.

18 (ic) Is long-term unemployed and has limited opportunities for
19 employment or reemployment in the same or a similar occupation
20 in the area in which the individual resides, including an individual
21 55 years of age or older who may have substantial barriers to
22 employment by reason of age.

23 (id) Was self-employed (including farmers and ranchers) and
24 is unemployed as a result of general economic conditions in the
25 community in which he or she resides or because of natural
26 disasters.

27 (ie) Was a civilian employee of the Department of Defense
28 employed at a military installation being closed or realigned under
29 the Defense Base Closure and Realignment Act of 1990.

30 (if) Was an active member of the Armed Forces or National
31 Guard as of September 30, 1990, and was either involuntarily
32 separated or separated pursuant to a special benefits program.

33 (ig) Is a seasonal or migrant worker who experiences chronic
34 seasonal unemployment and underemployment in the agriculture
35 industry, aggravated by continual advancements in technology and
36 mechanization.

37 (ih) Has been terminated or laid off, or has received a notice of
38 termination or layoff, as a consequence of compliance with the
39 Clean Air Act.

1 (V) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a disabled
3 individual who is eligible for or enrolled in, or has completed a
4 state rehabilitation plan or is a service-connected disabled veteran,
5 veteran of the Vietnam era, or veteran who is recently separated
6 from military service.

7 (VI) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was an
9 ex-offender. An ex-offender means an individual who has been
10 convicted of a felony or a misdemeanor offense punishable by
11 incarceration or a person charged with a felony offense or a
12 misdemeanor offense punishable by incarceration but placed on
13 probation by a state court without a finding of guilt. Ex-offender
14 shall not include an individual whose record has been expunged.

15 (VII) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was a person
17 eligible for or a recipient of any of the following:

18 (ia) Federal Supplemental Security Income benefits.

19 (ib) Temporary Assistance for Needy Families.

20 (ic) Food stamps.

21 (id) State and local general assistance.

22 (VIII) Immediately preceding the qualified employee's
23 commencement of employment with the taxpayer, was a member
24 of a federally recognized Indian tribe, band, or other group of
25 Native American descent.

26 ~~(IX) Immediately preceding the qualified employee's~~
27 ~~commencement of employment with the taxpayer, was a resident~~
28 ~~of a targeted employment area, as defined in Section 7072 of the~~
29 ~~Government Code.~~

30 ~~(X)~~

31 (IX) An employee who qualified the taxpayer for the enterprise
32 zone hiring credit under former Section 17053.8 or the program
33 area hiring credit under former Section 17053.11.

34 ~~(XI)~~

35 (X) Immediately preceding the qualified employee's
36 commencement of employment with the taxpayer, was a member
37 of a targeted group, as defined in Section 51(d) of the Internal
38 Revenue Code, or its successor.

39 (B) Priority for employment shall be provided to an individual
40 who is enrolled in a qualified program under the federal Workforce

1 Investment Act or the California Work Opportunity and
2 Responsibility to Kids Act (CalWORKs) or who is eligible as a
3 member of a targeted group under the Work Opportunity Tax
4 Credit (Section 51 of the Internal Revenue Code), or its successor.

5 (5) “Taxpayer” means a person or entity engaged in a trade or
6 business within an enterprise zone designated pursuant to Chapter
7 12.8 (commencing with Section 7070) of the Government Code.

8 (6) “Seasonal employment” means employment by a taxpayer
9 that has regular and predictable substantial reductions in trade or
10 business operations.

11 (c) The taxpayer shall do both of the following:

12 (1) ~~Obtain~~(A) *Obtain, within 21 days from the commencement*
13 *date of employment*, from the Employment Development
14 Department, as permitted by federal law, the local county or city
15 Workforce Investment Act administrative entity, the local county
16 CalWORKs office or social services agency, or the local
17 government administering the enterprise zone, a certification which
18 provides that a qualified employee meets the eligibility
19 requirements specified in clause (iv) of subparagraph (A) of
20 paragraph (4) of subdivision (b). The Employment Development
21 Department may provide preliminary screening and referral to a
22 certifying agency. The Employment Development Department
23 shall develop a form for this purpose. The Department of Housing
24 and Community Development shall develop regulations governing
25 the issuance of certificates by local governments pursuant to
26 subdivision (a) of Section 7086 of the Government Code.

27 (B) *Applications for certification shall be submitted to the*
28 *certifying agency within 21 days of the commencement date of*
29 *employment for the employee. The certifying agency shall not*
30 *provide a certification for any employee whose employment*
31 *commenced more than 21 days before the taxpayer requests a*
32 *certification.*

33 (2) Retain a copy of the certification and provide it upon request
34 to the Franchise Tax Board.

35 (d) (1) For purposes of this section:

36 (A) All employees of trades or businesses, which are not
37 incorporated, that are under common control shall be treated as
38 employed by a single taxpayer.

39 (B) The credit, if any, allowable by this section with respect to
40 each trade or business shall be determined by reference to its

1 proportionate share of the expense of the qualified wages giving
2 rise to the credit, and shall be allocated in that manner.

3 (C) Principles that apply in the case of controlled groups of
4 corporations, as specified in subdivision (d) of Section 23622.7,
5 shall apply with respect to determining employment.

6 (2) If an employer acquires the major portion of a trade or
7 business of another employer (hereafter in this paragraph referred
8 to as the “predecessor”) or the major portion of a separate unit of
9 a trade or business of a predecessor, then, for purposes of applying
10 this section (other than subdivision (e)) for any calendar year
11 ending after that acquisition, the employment relationship between
12 a qualified employee and an employer shall not be treated as
13 terminated if the employee continues to be employed in that trade
14 or business.

15 (e) (1) (A) If the employment, other than seasonal employment,
16 of any qualified employee, with respect to whom qualified wages
17 are taken into account under subdivision (a) is terminated by the
18 taxpayer at any time during the first 270 days of that employment
19 (whether or not consecutive) or before the close of the 270th
20 calendar day after the day in which that employee completes 90
21 days of employment with the taxpayer, the tax imposed by this
22 part for the taxable year in which that employment is terminated
23 shall be increased by an amount equal to the credit allowed under
24 subdivision (a) for that taxable year and all prior taxable years
25 attributable to qualified wages paid or incurred with respect to that
26 employee.

27 (B) If the seasonal employment of any qualified employee, with
28 respect to whom qualified wages are taken into account under
29 subdivision (a) is not continued by the taxpayer for a period of
30 270 days of employment during the 60-month period beginning
31 with the day the qualified employee commences seasonal
32 employment with the taxpayer, the tax imposed by this part, for
33 the taxable year that includes the 60th month following the month
34 in which the qualified employee commences seasonal employment
35 with the taxpayer, shall be increased by an amount equal to the
36 credit allowed under subdivision (a) for that taxable year and all
37 prior taxable years attributable to qualified wages paid or incurred
38 with respect to that qualified employee.

39 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
40 any of the following:

1 (i) A termination of employment of a qualified employee who
2 voluntarily leaves the employment of the taxpayer.

3 (ii) A termination of employment of a qualified employee who,
4 before the close of the period referred to in paragraph (1), becomes
5 disabled and unable to perform the services of that employment,
6 unless that disability is removed before the close of that period
7 and the taxpayer fails to offer reemployment to that employee.

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

12 (iv) A termination of employment of a qualified employee due
13 to a substantial reduction in the trade or business operations of the
14 taxpayer.

15 (v) A termination of employment of a qualified employee, if
16 that employee is replaced by other qualified employees so as to
17 create a net increase in both the number of employees and the
18 hours of employment.

19 (B) Subparagraph (B) of paragraph (1) shall not apply to any
20 of the following:

21 (i) A failure to continue the seasonal employment of a qualified
22 employee who voluntarily fails to return to the seasonal
23 employment of the taxpayer.

24 (ii) A failure to continue the seasonal employment of a qualified
25 employee who, before the close of the period referred to in
26 subparagraph (B) of paragraph (1), becomes disabled and unable
27 to perform the services of that seasonal employment, unless that
28 disability is removed before the close of that period and the
29 taxpayer fails to offer seasonal employment to that qualified
30 employee.

31 (iii) A failure to continue the seasonal employment of a qualified
32 employee, if it is determined that the failure to continue the
33 seasonal employment was due to the misconduct (as defined in
34 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
35 Code of Regulations) of that qualified employee.

36 (iv) A failure to continue seasonal employment of a qualified
37 employee due to a substantial reduction in the regular seasonal
38 trade or business operations of the taxpayer.

39 (v) A failure to continue the seasonal employment of a qualified
40 employee, if that qualified employee is replaced by other qualified

1 employees so as to create a net increase in both the number of
2 seasonal employees and the hours of seasonal employment.

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

9 (3) Any increase in tax under paragraph (1) shall not be treated
10 as tax imposed by this part for purposes of determining the amount
11 of any credit allowable under this part.

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

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

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

19 (g) For purposes of this section, “enterprise zone” means an
20 area designated as an enterprise zone pursuant to Chapter 12.8
21 (commencing with Section 7070) of Division 7 of Title 1 of the
22 Government Code.

23 (h) The credit allowable under this section shall be reduced by
24 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
25 claimed for the same employee. The credit shall also be reduced
26 by the federal credit allowed under Section 51 of the Internal
27 Revenue Code.

28 In addition, any deduction otherwise allowed under this part for
29 the wages or salaries paid or incurred by the taxpayer upon which
30 the credit is based shall be reduced by the amount of the credit,
31 prior to any reduction required by subdivision (i) or (j).

32 (i) In the case where the credit otherwise allowed under this
33 section exceeds the “net tax” for the taxable year, that portion of
34 the credit that exceeds the “net tax” may be carried over and added
35 to the credit, if any, in succeeding taxable years, until the credit is
36 exhausted. The credit shall be applied first to the earliest taxable
37 years possible.

38 (j) (1) The amount of the credit otherwise allowed under this
39 section and Section 17053.70, including any credit carryover from
40 prior years, that may reduce the “net tax” for the taxable year shall

1 not exceed the amount of tax which would be imposed on the
2 taxpayer's business income attributable to the enterprise zone
3 determined as if that attributable income represented all of the
4 income of the taxpayer subject to tax under this part.

5 (2) Attributable income shall be that portion of the taxpayer's
6 California source business income that is apportioned to the
7 enterprise zone. For that purpose, the taxpayer's business income
8 attributable to sources in this state first shall be determined in
9 accordance with Chapter 17 (commencing with Section 25101) of
10 Part 11. That business income shall be further apportioned to the
11 enterprise zone in accordance with Article 2 (commencing with
12 Section 25120) of Chapter 17 of Part 11, modified for purposes
13 of this section in accordance with paragraph (3).

14 (3) Business income shall be apportioned to the enterprise zone
15 by multiplying the total California business income of the taxpayer
16 by a fraction, the numerator of which is the property factor plus
17 the payroll factor, and the denominator of which is two. For
18 purposes of this paragraph:

19 (A) The property factor is a fraction, the numerator of which is
20 the average value of the taxpayer's real and tangible personal
21 property owned or rented and used in the enterprise zone during
22 the taxable year, and the denominator of which is the average value
23 of all the taxpayer's real and tangible personal property owned or
24 rented and used in this state during the taxable year.

25 (B) The payroll factor is a fraction, the numerator of which is
26 the total amount paid by the taxpayer in the enterprise zone during
27 the taxable year for compensation, and the denominator of which
28 is the total compensation paid by the taxpayer in this state during
29 the taxable year.

30 (4) The portion of any credit remaining, if any, after application
31 of this subdivision, shall be carried over to succeeding taxable
32 years, as if it were an amount exceeding the "net tax" for the
33 taxable year, as provided in subdivision (i).

34 (k) The changes made to this section by the act adding this
35 subdivision shall apply to taxable years beginning on or after
36 January 1, 1997.

37 (l) The changes made to this section by the act adding this
38 subdivision shall apply to taxable years beginning on or after
39 January 1, 2011.

SEC. 4. Section 17057.6 is added to the Revenue and Taxation Code, to read:

17057.6. (a) For taxable years beginning on or after January 1, 2011, there shall be allowed to a qualified taxpayer as a credit against the “net tax,” as defined in Section 17039, an amount equal to that allocated to a ~~local educational agency~~ *qualified taxpayer* by the ~~California Tax Credit Allocation Committee~~ *State Department of Education* pursuant to Section 64202 of the Education Code, *to be applied for each of five taxable years as provided in the certification provided to the qualified taxpayer pursuant to Section 64202 of the Education Code.*

(b) For purposes of this section a “qualified taxpayer” means a taxpayer, as defined in Section 64201 of the Education Code, who is either the sole owner if an individual, partners if the taxpayer is a partnership, or shareholders if the taxpayer is an “S” corporation.

(c) No credit shall be allowed pursuant to this section unless the qualified taxpayer attaches a copy of certification provided to the qualified taxpayer pursuant to Section 64202 of the Education Code.

~~(d) (1) Subject to paragraph (2), the aggregate amount of credits that may be allocated in any fiscal year pursuant to this section and Section 23610.5 shall be an amount equal to the sum of the following:~~

~~(A) _____ dollars (\$_____) in credits for the 2011–12 fiscal year and each fiscal year thereafter.~~

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

~~(C) The amount of credits allocated pursuant to this section and Section 23610.5 returned in the fiscal year.~~

~~(2) The aggregate amount of credits allocated in any fiscal year pursuant to this section and Section 23610.5 shall not exceed _____ dollars (\$_____) per fiscal year.~~

(d) The aggregate amount of credits that may be allocated in any fiscal year pursuant to this section and Section 23610.6 shall be an amount equal to the sum of the following:

(1) Sixteen million dollars (\$16,000,000) for the 2010–11 fiscal year.

(2) (A) Sixty-five million dollars (\$65,000,000) for the 2011–12 fiscal year.

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

3 (3) (A) *Ninety-five million dollars (\$95,000,000) for the*
4 *2012–13 fiscal year, hereafter the baseline amount, and each fiscal*
5 *year thereafter. For each subsequent fiscal year, the baseline*
6 *amount shall be adjusted by the Franchise Tax Board to reflect*
7 *the rate of inflation or deflation from the previous date that the*
8 *baseline amount was established, as measured by the Consumer*
9 *Price Index or other method of measuring the rate of inflation or*
10 *deflation which the Franchise Tax Board determines is reliable*
11 *and generally accepted.*

12 (B) *The unused credit allocation amount, if any, for the*
13 *preceding fiscal year, or years.*

14 (e) In the case where the credit allowed under this section
15 exceeds the “net tax,” the excess credit may be carried over to
16 reduce the “net tax” in the following taxable year, and succeeding
17 taxable years, if necessary, until the credit has been exhausted.

18 (f) *If a qualified taxpayer fails to comply with the requirements*
19 *of this section or with Part 38 (commencing with Section 64200)*
20 *of Division 4 of Title 2 of the Education Code, the credit shall be*
21 *disallowed and assessed and collected under Section 19051 until*
22 *the requirements are satisfied.*

23 SEC. 5. ~~Section 23610.5~~ 23610.6 is added to the Revenue and
24 Taxation Code, to read:

25 ~~23610.5.~~

26 23610.6. (a) For taxable years beginning on or after January
27 1, 2011, there shall be allowed to a qualified taxpayer as a credit
28 against the “tax,” as defined in Section 23036, an amount equal
29 to that allocated to a ~~local educational agency by the California~~
30 ~~Tax Credit Allocation Committee~~ *qualified taxpayer by the State*
31 *Department of Education* pursuant to Section 64202 of the
32 Education Code, *to be applied for each of five taxable years as*
33 *provided in the certification provided to the qualified taxpayer*
34 *pursuant to Section 64202 of the Education Code.*

35 (b) For purposes of this section a “qualified taxpayer” means a
36 taxpayer, as defined in Section 64201 of the Education Code, ~~who~~
37 ~~is either the sole owner if an individual, partners if the taxpayer is~~
38 ~~a partnership, or shareholders if the taxpayer is an “S” corporation.~~
39 *that is subject to the taxes imposed by this part.*

1 (c) No credit shall be allowed pursuant to this section unless
2 the qualified taxpayer attaches a copy of certification provided to
3 the qualified taxpayer pursuant to Section 64202 of the Education
4 Code.

5 ~~(d) (1) Subject to paragraph (2), the aggregate amount of credits~~
6 ~~that may be allocated in any fiscal year pursuant to this section~~
7 ~~and Section 17057.6 shall be an amount equal to the sum of the~~
8 ~~following:~~

9 ~~(A) _____ dollars (\$_____) in credits for the 2011–12 fiscal year~~
10 ~~and each fiscal year thereafter.~~

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

13 ~~(C) The amount of credits allocated pursuant to this section and~~
14 ~~Section 17057.6 returned in the fiscal year.~~

15 ~~(2) The aggregate amount of credits allocated in any fiscal year~~
16 ~~pursuant to this section and Section 17057.6 shall not exceed _____~~
17 ~~dollars (\$_____) per fiscal year.~~

18 *(d) The aggregate amount of credits that may be allocated in*
19 *any fiscal year pursuant to this section and Section 17057.6 shall*
20 *be an amount equal to the sum of the following:*

21 *(1) Sixteen million dollars (\$16,000,000) for the 2010–11 fiscal*
22 *year.*

23 *(2) (A) Sixty-five million dollars (\$65,000,000) for the 2011–12*
24 *fiscal year.*

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

27 *(3) (A) Ninety-five million dollars (\$95,000,000) for the*
28 *2012–13 fiscal year, hereafter the baseline amount, and each fiscal*
29 *year thereafter. For each subsequent fiscal year, the baseline*
30 *amount shall be adjusted by the Franchise Tax Board to reflect*
31 *the rate of inflation or deflation from the previous date that the*
32 *baseline amount was established, as measured by the Consumer*
33 *Price Index or other method of measuring the rate of inflation or*
34 *deflation which the Franchise Tax Board determines is reliable*
35 *and generally accepted.*

36 *(B) The unused credit allocation amount, if any, for the*
37 *preceding fiscal year, or years.*

38 (e) In the case where the credit allowed under this section
39 exceeds the “~~net tax~~,” “*tax*,” the excess credit may be carried over
40 to reduce the “~~net tax~~” “*tax*” in the following taxable year, and

1 succeeding taxable years, if necessary, until the credit has been
2 exhausted.

3 *(f) If a qualified taxpayer fails to comply with the requirements*
4 *of this section or with Part 38 (commencing with Section 64200)*
5 *of Division 4 of Title 2 of the Education Code, the credit shall be*
6 *disallowed and assessed and collected under Section 19051 until*
7 *the requirements are satisfied.*

8 SEC. 6. Section 23634 of the Revenue and Taxation Code is
9 amended to read:

10 23634. (a) For each taxable year beginning on or after January
11 1, 1998, there shall be allowed a credit against the “tax” (as defined
12 by Section 23036) to a qualified taxpayer who employs a qualified
13 employee in a targeted tax area during the taxable year. The credit
14 shall be equal to the sum of each of the following:

15 (1) Fifty percent of qualified wages in the first year of
16 employment.

17 (2) Forty percent of qualified wages in the second year of
18 employment.

19 (3) Thirty percent of qualified wages in the third year of
20 employment.

21 (4) Twenty percent of qualified wages in the fourth year of
22 employment.

23 (5) Ten percent of qualified wages in the fifth year of
24 employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) That portion of wages paid or incurred by the qualified
28 taxpayer during the taxable year to qualified employees that does
29 not exceed 150 percent of the minimum wage.

30 (B) Wages received during the 60-month period beginning with
31 the first day the employee commences employment with the
32 qualified taxpayer. Reemployment in connection with any increase,
33 including a regularly occurring seasonal increase, in the trade or
34 business operations of the qualified taxpayer does not constitute
35 commencement of employment for purposes of this section.

36 (C) Qualified wages do not include any wages paid or incurred
37 by the qualified taxpayer on or after the targeted tax area expiration
38 date. However, wages paid or incurred with respect to qualified
39 employees who are employed by the qualified taxpayer within the
40 targeted tax area within the 60-month period prior to the targeted

1 tax area expiration date shall continue to qualify for the credit
2 under this section after the targeted tax area expiration date, in
3 accordance with all provisions of this section applied as if the
4 targeted tax area designation were still in existence and binding.

5 (2) “Minimum wage” means the wage established by the
6 Industrial Welfare Commission as provided for in Chapter 1
7 (commencing with Section 1171) of Part 4 of Division 2 of the
8 Labor Code.

9 (3) “Targeted tax area expiration date” means the date the
10 targeted tax area designation expires, is revoked, is no longer
11 binding, or becomes inoperative.

12 (4) (A) “Qualified employee” means an individual who meets
13 all of the following requirements:

14 (i) At least 90 percent of his or her services for the qualified
15 taxpayer during the taxable year are directly related to the conduct
16 of the qualified taxpayer’s trade or business located in a targeted
17 tax area.

18 (ii) Performs at least 50 percent of his or her services for the
19 qualified taxpayer during the taxable year in a targeted tax area.

20 (iii) Is hired by the qualified taxpayer after the date of original
21 designation of the area in which services were performed as a
22 targeted tax area.

23 (iv) Is any of the following:

24 (I) Immediately preceding the qualified employee’s
25 commencement of employment with the qualified taxpayer, was
26 a person eligible for services under the federal Job Training
27 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
28 who is receiving, or is eligible to receive, subsidized employment,
29 training, or services funded by the federal Job Training Partnership
30 Act, or its successor.

31 (II) Immediately preceding the qualified employee’s
32 commencement of employment with the qualified taxpayer, was
33 a person eligible to be a voluntary or mandatory registrant under
34 the Greater Avenues for Independence Act of 1985 (GAIN)
35 provided for pursuant to Article 3.2 (commencing with Section
36 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
37 Institutions Code, or its successor.

38 (III) Immediately preceding the qualified employee’s
39 commencement of employment with the qualified taxpayer, was
40 an economically disadvantaged individual 14 years of age or older.

1 (IV) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a dislocated worker who meets any of the following:

4 (ia) Has been terminated or laid off or who has received a notice
5 of termination or layoff from employment, is eligible for or has
6 exhausted entitlement to unemployment insurance benefits, and
7 is unlikely to return to his or her previous industry or occupation.

8 (ib) Has been terminated or has received a notice of termination
9 of employment as a result of any permanent closure or any
10 substantial layoff at a plant, facility, or enterprise, including an
11 individual who has not received written notification but whose
12 employer has made a public announcement of the closure or layoff.

13 (ic) Is long-term unemployed and has limited opportunities for
14 employment or reemployment in the same or a similar occupation
15 in the area in which the individual resides, including an individual
16 55 years of age or older who may have substantial barriers to
17 employment by reason of age.

18 (id) Was self-employed (including farmers and ranchers) and
19 is unemployed as a result of general economic conditions in the
20 community in which he or she resides or because of natural
21 disasters.

22 (ie) Was a civilian employee of the Department of Defense
23 employed at a military installation being closed or realigned under
24 the Defense Base Closure and Realignment Act of 1990.

25 (if) Was an active member of the Armed Forces or National
26 Guard as of September 30, 1990, and was either involuntarily
27 separated or separated pursuant to a special benefits program.

28 (ig) Is a seasonal or migrant worker who experiences chronic
29 seasonal unemployment and underemployment in the agriculture
30 industry, aggravated by continual advancements in technology and
31 mechanization.

32 (ih) Has been terminated or laid off, or has received a notice of
33 termination or layoff, as a consequence of compliance with the
34 Clean Air Act.

35 (V) Immediately preceding the qualified employee's
36 commencement of employment with the qualified taxpayer, was
37 a disabled individual who is eligible for or enrolled in, or has
38 completed a state rehabilitation plan or is a service-connected
39 disabled veteran, veteran of the Vietnam era, or veteran who is
40 recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An ex-offender means an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration or an individual charged with a felony offense or a misdemeanor offense punishable by incarceration but placed on probation by a state court without a finding of guilt. Ex-offender does not include an individual whose record has been expunged.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

(ia) Federal Supplemental Security Income benefits.

(ib) Temporary Assistance for Needy Families.

(ic) Food stamps.

(id) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.~~

~~(X)~~

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Workforce Training Act or the California Work Opportunity and Responsibility to Kids Act (CalWORKs) or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,

1 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
2 of the Standard Industrial Classification (SIC) Manual published
3 by the United States Office of Management and Budget, 1987
4 edition.

5 (B) In the case of any passthrough entity, the determination of
6 whether a taxpayer is a qualified taxpayer under this section shall
7 be made at the entity level and any credit under this section or
8 Section 17053.34 shall be allowed to the passthrough entity and
9 passed through to the partners or shareholders in accordance with
10 applicable provisions of this part or Part 10 (commencing with
11 Section 17001). For purposes of this subparagraph, the term
12 “passthrough entity” means any partnership or “S” corporation.

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

16 (c) If the qualified taxpayer is allowed a credit for qualified
17 wages pursuant to this section, only one credit shall be allowed to
18 the taxpayer under this part with respect to those qualified wages.

19 (d) The qualified taxpayer shall do both of the following:

20 (1) ~~Obtain~~(A) *Obtain, within 21 days from the commencement*
21 *date of employment, from the Employment Development*
22 *Department, as permitted by federal law, the local county or city*
23 *Workforce Investment Act administrative entity, the local county*
24 *CalWORKs office or social services agency, or the local*
25 *government administering the targeted tax area, a certification that*
26 *provides that a qualified employee meets the eligibility*
27 *requirements specified in clause (iv) of subparagraph (A) of*
28 *paragraph (4) of subdivision (b). The Employment Development*
29 *Department may provide preliminary screening and referral to a*
30 *certifying agency. The Department of Housing and Community*
31 *Development shall develop regulations for the issuance of*
32 *certificates pursuant to subdivision (g) of Section 7097 of the*
33 *Government Code, and shall develop forms for this purpose.*

34 (B) *Applications for certification shall be submitted to the*
35 *certifying agency within 21 days of the commencement date of*
36 *employment for the employee. The certifying agency shall not*
37 *provide a certification for any employee whose employment*
38 *commenced more than 21 days before the taxpayer requests a*
39 *certification.*

1 (2) Retain a copy of the certification and provide it upon request
2 to the Franchise Tax Board.

3 (e) (1) For purposes of this section:

4 (A) All employees of all corporations that are members of the
5 same controlled group of corporations shall be treated as employed
6 by a single taxpayer.

7 (B) The credit, if any, allowable by this section to each member
8 shall be determined by reference to its proportionate share of the
9 expense of the qualified wages giving rise to the credit, and shall
10 be allocated in that manner.

11 (C) For purposes of this subdivision, “controlled group of
12 corporations” means “controlled group of corporations” as defined
13 in Section 1563(a) of the Internal Revenue Code, except that:

14 (i) “More than 50 percent” shall be substituted for “at least 80
15 percent” each place it appears in Section 1563(a)(1) of the Internal
16 Revenue Code.

17 (ii) The determination shall be made without regard to
18 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
19 Revenue Code.

20 (2) If an employer acquires the major portion of a trade or
21 business of another employer (hereafter in this paragraph referred
22 to as the “predecessor”) or the major portion of a separate unit of
23 a trade or business of a predecessor, then, for purposes of applying
24 this section (other than subdivision (f)) for any calendar year ending
25 after that acquisition, the employment relationship between a
26 qualified employee and an employer shall not be treated as
27 terminated if the employee continues to be employed in that trade
28 or business.

29 (f) (1) (A) If the employment, other than seasonal employment,
30 of any qualified employee with respect to whom qualified wages
31 are taken into account under subdivision (a) is terminated by the
32 qualified taxpayer at any time during the first 270 days of that
33 employment (whether or not consecutive) or before the close of
34 the 270th calendar day after the day in which that employee
35 completes 90 days of employment with the qualified taxpayer, the
36 tax imposed by this part for the taxable year in which that
37 employment is terminated shall be increased by an amount equal
38 to the credit allowed under subdivision (a) for that taxable year
39 and all prior taxable years attributable to qualified wages paid or
40 incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

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

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

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

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

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in

1 subparagraph (B) of paragraph (1), becomes disabled and unable
2 to perform the services of that seasonal employment, unless that
3 disability is removed before the close of that period and the
4 qualified taxpayer fails to offer seasonal employment to that
5 qualified employee.

6 (iii) A failure to continue the seasonal employment of a qualified
7 employee, if it is determined that the failure to continue the
8 seasonal employment was due to the misconduct (as defined in
9 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
10 Code of Regulations) of that qualified employee.

11 (iv) A failure to continue seasonal employment of a qualified
12 employee due to a substantial reduction in the regular seasonal
13 trade or business operations of the qualified taxpayer.

14 (v) A failure to continue the seasonal employment of a qualified
15 employee, if that qualified employee is replaced by other qualified
16 employees so as to create a net increase in both the number of
17 seasonal employees and the hours of seasonal employment.

18 (C) For purposes of paragraph (1), the employment relationship
19 between the qualified taxpayer and a qualified employee shall not
20 be treated as terminated by either of the following:

21 (i) By a transaction to which Section 381(a) of the Internal
22 Revenue Code applies, if the qualified employee continues to be
23 employed by the acquiring corporation.

24 (ii) By reason of a mere change in the form of conducting the
25 trade or business of the qualified taxpayer, if the qualified
26 employee continues to be employed in that trade or business and
27 the qualified taxpayer retains a substantial interest in that trade or
28 business.

29 (3) Any increase in tax under paragraph (1) shall not be treated
30 as tax imposed by this part for purposes of determining the amount
31 of any credit allowable under this part.

32 (g) Rules similar to the rules provided in Sections 46(e) and (h)
33 of the Internal Revenue Code shall apply to both of the following:

34 (1) An organization to which Section 593 of the Internal
35 Revenue Code applies.

36 (2) A regulated investment company or a real estate investment
37 trust subject to taxation under this part.

38 (h) For purposes of this section, “targeted tax area” means an
39 area designated pursuant to Chapter 12.93 (commencing with
40 Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

1 (4) The portion of any credit remaining, if any, after application
2 of this subdivision, shall be carried over to succeeding taxable
3 years, as if it were an amount exceeding the “tax” for the taxable
4 year, as provided in subdivision (h).

5 (5) In the event that a credit carryover is allowable under
6 subdivision (h) for any taxable year after the targeted tax area
7 designation has expired or been revoked, the targeted tax area shall
8 be deemed to remain in existence for purposes of computing the
9 limitation specified in this subdivision.

10 (k) The changes made to this section by the act adding this
11 subdivision shall apply to taxable years beginning on or after
12 January 1, 2011.

13 SEC. 7. This act provides for a tax levy within the meaning of
14 Article IV of the Constitution and shall go into immediate effect.