

AMENDED IN ASSEMBLY MAY 18, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1278

Introduced by Assembly Member *Pan Hill*

February 18, 2011

An act to add and repeal Sections 17053.82 and 23628 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as amended, *Pan Hill*. ~~Income—Personal income and corporation—tax taxes: hiring credits:—volunteer services:—school enterprise zones, LAMBRAs, manufacturing enhancement areas, and targeted tax areas: relocation.~~

The Personal Income Tax Law and the Corporation Tax Law allow credits for hiring employees in an enterprise zone, a LAMBRA, a manufacturing enhancement area, and a targeted tax area.

This bill would limit the application of these credits, for a taxpayer that relocates to an enterprise zone, a LAMBRA, a manufacturing enhancement area, or a targeted tax area from within the state, to only employees that exceed the number of employees at the previous location.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

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

~~This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2012, and before January 1, 2019, in an amount equal to specified wages paid to employees that perform volunteer services at a qualified school, as defined.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 17053.34 of the Revenue and Taxation
2 Code is amended to read:

3 17053.34. (a) For each taxable year beginning on or after
4 January 1, 1998, there shall be allowed a credit against the “net
5 tax” (as defined in Section 17039) to a qualified taxpayer who
6 employs a qualified employee in a targeted tax area during the
7 taxable year. The credit shall be equal to the sum of each of the
8 following:

9 (1) Fifty percent of qualified wages in the first year of
10 employment.

11 (2) Forty percent of qualified wages in the second year of
12 employment.

13 (3) Thirty percent of qualified wages in the third year of
14 employment.

15 (4) Twenty percent of qualified wages in the fourth year of
16 employment.

17 (5) Ten percent of qualified wages in the fifth year of
18 employment.

19 (b) For purposes of this section:

20 (1) “Qualified wages” means:

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

24 (B) Wages received during the 60-month period beginning with
25 the first day the employee commences employment with the
26 qualified taxpayer. Reemployment in connection with any increase,

1 including a regularly occurring seasonal increase, in the trade or
2 business operations of the qualified taxpayer does not constitute
3 commencement of employment for purposes of this section.

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

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

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

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

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

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

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

31 (iv) Is any of the following:

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

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the qualified taxpayer, was

1 a person eligible to be a voluntary or mandatory registrant under
2 the Greater Avenues for Independence Act of 1985 (GAIN)
3 provided for pursuant to Article 3.2 (commencing with Section
4 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
5 Institutions Code, or its successor.

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

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

12 ~~(aa)~~

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

17 ~~(bb)~~

18 *(ib)* Has been terminated or has received a notice of termination
19 of employment as a result of any permanent closure or any
20 substantial layoff at a plant, facility, or enterprise, including an
21 individual who has not received written notification but whose
22 employer has made a public announcement of the closure or layoff.

23 ~~(cc)~~

24 *(ic)* Is long-term unemployed and has limited opportunities for
25 employment or reemployment in the same or a similar occupation
26 in the area in which the individual resides, including an individual
27 55 years of age or older who may have substantial barriers to
28 employment by reason of age.

29 ~~(dd)~~

30 *(id)* Was self-employed (including farmers and ranchers) and
31 is unemployed as a result of general economic conditions in the
32 community in which he or she resides or because of natural
33 disasters.

34 ~~(ee)~~

35 *(ie)* Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 ~~(ff)~~

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

4 ~~(gg)~~

5 (ig) Is a seasonal or migrant worker who experiences chronic
6 seasonal unemployment and underemployment in the agriculture
7 industry, aggravated by continual advancements in technology and
8 mechanization.

9 ~~(hh)~~

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

13 (V) Immediately preceding the qualified employee's
14 commencement of employment with the qualified taxpayer, was
15 a disabled individual who is eligible for or enrolled in, or has
16 completed a state rehabilitation plan or is a service-connected
17 disabled veteran, veteran of the Vietnam era, or veteran who is
18 recently separated from military service.

19 (VI) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 an ex-offender. An individual shall be treated as convicted if he
22 or she was placed on probation by a state court without a finding
23 of guilty.

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

27 ~~(aa)~~

28 (ia) Federal Supplemental Security Income benefits.

29 ~~(bb)~~

30 (ib) Aid to Families with Dependent Children.

31 ~~(cc)~~

32 (ic) Food stamps.

33 ~~(dd)~~

34 (id) State and local general assistance.

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

1 (IX) Immediately preceding the qualified employee’s
2 commencement of employment with the qualified taxpayer, was
3 a resident of a targeted tax area.

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

8 (B) Priority for employment shall be provided to an individual
9 who is enrolled in a qualified program under the federal Job
10 Training Partnership Act or the Greater Avenues for Independence
11 Act of 1985 or who is eligible as a member of a targeted group
12 under the Work Opportunity Tax Credit (Section 51 of the Internal
13 Revenue Code), or its successor.

14 (5) (A) “Qualified taxpayer” means a person or entity that meets
15 both of the following:

16 (i) Is engaged in a trade or business within a targeted tax area
17 designated pursuant to Chapter 12.93 (commencing with Section
18 7097) of Division 7 of Title 1 of the Government Code.

19 (ii) Is engaged in those lines of business described in Codes
20 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
21 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
22 of the Standard Industrial Classification (SIC) Manual published
23 by the United States Office of Management and Budget, 1987
24 edition.

25 (B) In the case of any passthrough entity, the determination of
26 whether a taxpayer is a qualified taxpayer under this section shall
27 be made at the entity level and any credit under this section or
28 Section 23634 shall be allowed to the passthrough entity and passed
29 through to the partners or shareholders in accordance with
30 applicable provisions of this part or Part 11 (commencing with
31 Section 23001). For purposes of this subdivision, the term
32 “passthrough entity” means any partnership or S corporation.

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

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

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

1 (1) Obtain from the Employment Development Department, as
2 permitted by federal law, the local county or city Job Training
3 Partnership Act administrative entity, the local county GAIN office
4 or social services agency, or the local government administering
5 the targeted tax area, a certification that provides that a qualified
6 employee meets the eligibility requirements specified in clause
7 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
8 Employment Development Department may provide preliminary
9 screening and referral to a certifying agency. The Department of
10 Housing and Community Development shall develop regulations
11 governing the issuance of certificates pursuant to subdivision (g)
12 of Section 7097 of the Government Code, and shall develop forms
13 for this purpose.

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

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

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

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

24 (C) Principles that apply in the case of controlled groups of
25 corporations, as specified in subdivision (d) of Section 23634,
26 shall apply with respect to determining employment.

27 (2) If an employer acquires the major portion of a trade or
28 business of another employer (hereinafter in this paragraph referred
29 to as the “predecessor”) or the major portion of a separate unit of
30 a trade or business of a predecessor, then, for purposes of applying
31 this section (other than subdivision (f)) for any calendar year ending
32 after that acquisition, the employment relationship between a
33 qualified employee and an employer shall not be treated as
34 terminated if the employee continues to be employed in that trade
35 or business.

36 (f) (1) (A) If the employment, other than seasonal employment,
37 of any qualified employee, with respect to whom qualified wages
38 are taken into account under subdivision (a) is terminated by the
39 qualified taxpayer at any time during the first 270 days of that
40 employment (whether or not consecutive) or before the close of

1 the 270th calendar day after the day in which that employee
2 completes 90 days of employment with the qualified taxpayer, the
3 tax imposed by this part for the taxable year in which that
4 employment is terminated shall be increased by an amount equal
5 to the credit allowed under subdivision (a) for that taxable year
6 and all prior taxable years attributable to qualified wages paid or
7 incurred with respect to that employee.

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

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

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

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

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

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

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

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

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

6 (ii) A failure to continue the seasonal employment of a qualified
7 employee who, before the close of the period referred to in
8 subparagraph (B) of paragraph (1), becomes disabled and unable
9 to perform the services of that seasonal employment, unless that
10 disability is removed before the close of that period and the
11 qualified taxpayer fails to offer seasonal employment to that
12 qualified employee.

13 (iii) A failure to continue the seasonal employment of a qualified
14 employee, if it is determined that the failure to continue the
15 seasonal employment was due to the misconduct (as defined in
16 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
17 Code of Regulations) of that qualified employee.

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

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

25 (C) For purposes of paragraph (1), the employment relationship
26 between the qualified taxpayer and a qualified employee shall not
27 be treated as terminated by reason of a mere change in the form
28 of conducting the trade or business of the qualified taxpayer, if the
29 qualified employee continues to be employed in that trade or
30 business and the qualified taxpayer retains a substantial interest
31 in that trade or business.

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

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

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

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

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

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

13 (j) (1) The amount of the credit otherwise allowed under this
14 section and Section 17053.33, including any credit carryover from
15 prior years, that may reduce the “net tax” for the taxable year shall
16 not exceed the amount of tax that would be imposed on the
17 qualified taxpayer’s business income attributable to the targeted
18 tax area determined as if that attributable income represented all
19 of the income of the qualified taxpayer subject to tax under this
20 part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 targeted tax area. For that purpose, the taxpayer’s business income
24 attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101) of
26 Part 11. That business income shall be further apportioned to the
27 targeted tax area in accordance with Article 2 (commencing with
28 Section 25120) of Chapter 17 of Part 11, modified for purposes
29 of this section in accordance with paragraph (3).

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

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

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

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

10 (5) In the event that a credit carryover is allowable under
11 subdivision (h) for any taxable year after the targeted tax area
12 expiration date, the targeted tax area shall be deemed to remain in
13 existence for purposes of computing the limitation specified in
14 this subdivision.

15 *(k) If a taxpayer relocated to a targeted tax area from within*
16 *the state during any taxable year beginning on or after January*
17 *1, 2011, the taxpayer shall be allowed a credit for the taxable year*
18 *only for that number of employees that exceeds the number of*
19 *employees at the previous location. The number of employees at*
20 *the previous location and the type of jobs undertaken shall be*
21 *established by the Employment Development Department.*
22 *Exceptions to this subdivision shall be limited to the following:*

23 *(1) Employees, who undertake core work activities or activities*
24 *that are the primary job duties of the employee that are*
25 *significantly different from those activities at the previous location,*
26 *as determined by the Employment Development Department.*

27 *(2) Employees of taxpayers that receive a bona fide offer to*
28 *relocate to another state.*

29 *(3) Employees, who relocate as a result of a natural disaster,*
30 *civic unrest, or eminent domain proceeding.*

31 *SEC. 2. Section 17053.46 of the Revenue and Taxation Code*
32 *is amended to read:*

33 17053.46. (a) For each taxable year beginning on or after
34 January 1, 1995, there shall be allowed as a credit against the “net
35 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
36 a qualified disadvantaged individual or a qualified displaced
37 employee during the taxable year for employment in the LAMBRA.
38 The credit shall be equal to the sum of each of the following:

39 (1) Fifty percent of the qualified wages in the first year of
40 employment.

- 1 (2) Forty percent of the qualified wages in the second year of
2 employment.
- 3 (3) Thirty percent of the qualified wages in the third year of
4 employment.
- 5 (4) Twenty percent of the qualified wages in the fourth year of
6 employment.
- 7 (5) Ten percent of the qualified wages in the fifth year of
8 employment.
- 9 (b) For purposes of this section:
 - 10 (1) “Qualified wages” means:
 - 11 (A) That portion of wages paid or incurred by the employer
12 during the taxable year to qualified disadvantaged individuals or
13 qualified displaced employees that does not exceed 150 percent
14 of the minimum wage.
 - 15 (B) The total amount of qualified wages which may be taken
16 into account for purposes of claiming the credit allowed under this
17 section shall not exceed two million dollars (\$2,000,000) per
18 taxable year.
 - 19 (C) Wages received during the 60-month period beginning with
20 the first day the individual commences employment with the
21 taxpayer. Reemployment in connection with any increase, including
22 a regularly occurring seasonal increase, in the trade or business
23 operations of the qualified taxpayer does not constitute
24 commencement of employment for purposes of this section.
 - 25 (D) Qualified wages do not include any wages paid or incurred
26 by the qualified taxpayer on or after the LAMBRA expiration date.
27 However, wages paid or incurred with respect to qualified
28 disadvantaged individuals or qualified displaced employees who
29 are employed by the qualified taxpayer within the LAMBRA within
30 the 60-month period prior to the LAMBRA expiration date shall
31 continue to qualify for the credit under this section after the
32 LAMBRA expiration date, in accordance with all provisions of
33 this section applied as if the LAMBRA designation were still in
34 existence and binding.
 - 35 (2) “Minimum wage” means the wage established by the
36 Industrial Welfare Commission as provided for in Chapter 1
37 (commencing with Section 1171) of Part 4 of Division 2 of the
38 Labor Code.

1 (3) “LAMBRA” means a local agency military base recovery
2 area designated in accordance with Section 7114 of the Government
3 Code.

4 (4) “Qualified disadvantaged individual” means an individual
5 who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the taxpayer
7 during the taxable year are directly related to the conduct of the
8 taxpayer’s trade or business located in a LAMBRA.

9 (ii) Who performs at least 50 percent of his or her services for
10 the taxpayer during the taxable year in the LAMBRA.

11 (B) Who is hired by the employer after the designation of the
12 area as a LAMBRA in which the individual’s services were
13 primarily performed.

14 (C) Who is any of the following immediately preceding the
15 individual’s commencement of employment with the taxpayer:

16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.).

19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985 as provided pursuant to
21 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
22 3 of Division 9 of the Welfare and Institutions Code.

23 (iii) An economically disadvantaged individual age 16 years or
24 older.

25 (iv) A dislocated worker who meets any of the following
26 conditions:

27 (I) Has been terminated or laid off or who has received a notice
28 of termination or layoff from employment, is eligible for or has
29 exhausted entitlement to unemployment insurance benefits, and
30 is unlikely to return to his or her previous industry or occupation.

31 (II) Has been terminated or has received a notice of termination
32 of employment as a result of any permanent closure or any
33 substantial layoff at a plant, facility, or enterprise, including an
34 individual who has not received written notification but whose
35 employer has made a public announcement of the closure or layoff.

36 (III) Is long-term unemployed and has limited opportunities for
37 employment or reemployment in the same or a similar occupation
38 in the area in which the individual resides, including an individual
39 55 years of age or older who may have substantial barriers to
40 employment by reason of age.

1 (IV) Was self-employed (including farmers and ranchers) and
 2 is unemployed as a result of general economic conditions in the
 3 community in which he or she resides or because of natural
 4 disasters.

5 (V) Was a civilian employee of the Department of Defense
 6 employed at a military installation being closed or realigned under
 7 the Defense Base Closure and Realignment Act of 1990.

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

11 (VII) Experiences chronic seasonal unemployment and
 12 underemployment in the agriculture industry, aggravated by
 13 continual advancements in technology and mechanization.

14 (VIII) Has been terminated or laid off or has received a notice
 15 of termination or layoff as a consequence of compliance with the
 16 Clean Air Act.

17 (v) An individual who is enrolled in or has completed a state
 18 rehabilitation plan or is a service-connected disabled veteran,
 19 veteran of the Vietnam era, or veteran who is recently separated
 20 from military service.

21 (vi) An ex-offender. An individual shall be treated as convicted
 22 if he or she was placed on probation by a state court without a
 23 finding of guilty.

24 (vii) A recipient of:

25 (I) Federal Supplemental Security Income benefits.

26 (II) Aid to Families with Dependent Children.

27 (III) Food stamps.

28 (IV) State and local general assistance.

29 (viii) Is a member of a federally recognized Indian tribe, band,
 30 or other group of Native American descent.

31 (5) “Qualified taxpayer” means a taxpayer or partnership that
 32 conducts a trade or business within a LAMBRA and, for the first
 33 two taxable years, has a net increase in jobs (defined as 2,000 paid
 34 hours per employee per year) of one or more employees in the
 35 LAMBRA.

36 (A) The net increase in the number of jobs shall be determined
 37 by subtracting the total number of full-time employees (defined
 38 as 2,000 paid hours per employee per year) the taxpayer employed
 39 in this state in the taxable year prior to commencing business
 40 operations in the LAMBRA from the total number of full-time

1 employees the taxpayer employed in this state during the second
2 taxable year after commencing business operations in the
3 LAMBRA. For taxpayers who commence doing business in this
4 state with their LAMBRA business operation, the number of
5 employees for the taxable year prior to commencing business
6 operations in the LAMBRA shall be zero. If the taxpayer has a net
7 increase in jobs in the state, the credit shall be allowed only if one
8 or more full-time employees is employed within the LAMBRA.

9 (B) The total number of employees employed in the LAMBRA
10 shall equal the sum of both of the following:

11 (i) The total number of hours worked in the LAMBRA for the
12 taxpayer by employees (not to exceed 2,000 hours per employee)
13 who are paid an hourly wage divided by 2,000.

14 (ii) The total number of months worked in the LAMBRA for
15 the taxpayer by employees who are salaried employees divided
16 by 12.

17 (C) In the case of a taxpayer who first commences doing
18 business in the LAMBRA during the taxable year, for purposes of
19 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
20 “2,000” and “12” shall be multiplied by a fraction, the numerator
21 of which is the number of months of the taxable year that the
22 taxpayer was doing business in the LAMBRA and the denominator
23 of which is 12.

24 (6) “Qualified displaced employee” means an individual who
25 satisfies all of the following requirements:

26 (A) Any civilian or military employee of a base or former base
27 who has been displaced as a result of a federal base closure act.

28 (B) (i) At least 90 percent of whose services for the taxpayer
29 during the taxable year are directly related to the conduct of the
30 taxpayer’s trade or business located in a LAMBRA.

31 (ii) Who performs at least 50 percent of his or her services for
32 the taxpayer during the taxable year in a LAMBRA.

33 (C) Who is hired by the employer after the designation of the
34 area in which services were performed as a LAMBRA.

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

38 (8) “LAMBRA expiration date” means the date the LAMBRA
39 designation expires, is no longer binding, or becomes inoperative.

1 (c) For qualified disadvantaged individuals or qualified displaced
 2 employees hired on or after January 1, 2001, the taxpayer shall do
 3 both of the following:

4 (1) Obtain from the Employment Development Department, as
 5 permitted by federal law, the local county or city Job Training
 6 Partnership Act administrative entity, the local county GAIN office
 7 or social services agency, or the local government administering
 8 the LAMBRA, a certification that provides that a qualified
 9 disadvantaged individual or qualified displaced employee meets
 10 the eligibility requirements specified in subparagraph (C) of
 11 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
 12 (6) of subdivision (b). The Employment Development Department
 13 may provide preliminary screening and referral to a certifying
 14 agency. The Department of Housing and Community Development
 15 shall develop regulations governing the issuance of certificates
 16 pursuant to Section 7114.2 of the Government Code and shall
 17 develop forms for this purpose.

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

20 (d) (1) For purposes of this section, both of the following apply:

21 (A) All employees of trades or businesses that are under
 22 common control shall be treated as employed by a single employer.

23 (B) The credit (if any) allowable by this section with respect to
 24 each trade or business shall be determined by reference to its
 25 proportionate share of the qualified wages giving rise to the credit.

26 The regulations prescribed under this paragraph shall be based
 27 on principles similar to the principles that apply in the case of
 28 controlled groups of corporations as specified in subdivision (e)
 29 of Section 23622.

30 (2) If an employer acquires the major portion of a trade or
 31 business of another employer (hereinafter in this paragraph referred
 32 to as the “predecessor”) or the major portion of a separate unit of
 33 a trade or business of a predecessor, then, for purposes of applying
 34 this section (other than subdivision (d)) for any calendar year
 35 ending after that acquisition, the employment relationship between
 36 an employee and an employer shall not be treated as terminated if
 37 the employee continues to be employed in that trade or business.

38 (e) (1) (A) If the employment, other than seasonal employment,
 39 of any employee, with respect to whom qualified wages are taken
 40 into account under subdivision (a) is terminated by the taxpayer

1 at any time during the first 270 days of that employment (whether
2 or not consecutive) or before the close of the 270th calendar day
3 after the day in which that employee completes 90 days of
4 employment with the taxpayer, the tax imposed by this part for
5 the taxable year in which that employment is terminated shall be
6 increased by an amount (determined under those regulations) equal
7 to the credit allowed under subdivision (a) for that taxable year
8 and all prior taxable years attributable to qualified wages paid or
9 incurred with respect to that employee.

10 (B) If the seasonal employment of any qualified disadvantaged
11 individual, with respect to whom qualified wages are taken into
12 account under subdivision (a) is not continued by the qualified
13 taxpayer for a period of 270 days of employment during the
14 60-month period beginning with the day the qualified
15 disadvantaged individual commences seasonal employment with
16 the qualified taxpayer, the tax imposed by this part, for the taxable
17 year that includes the 60th month following the month in which
18 the qualified disadvantaged individual commences seasonal
19 employment with the qualified taxpayer, shall be increased by an
20 amount equal to the credit allowed under subdivision (a) for that
21 taxable year and all prior taxable years attributable to qualified
22 wages paid or incurred with respect to that qualified disadvantaged
23 individual.

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

26 (i) A termination of employment of an employee who voluntarily
27 leaves the employment of the taxpayer.

28 (ii) A termination of employment of an individual who, before
29 the close of the period referred to in subparagraph (A) of paragraph
30 (1), becomes disabled to perform the services of that employment,
31 unless that disability is removed before the close of that period
32 and the taxpayer fails to offer reemployment to that individual.

33 (iii) A termination of employment of an individual, if it is
34 determined that the termination was due to the misconduct (as
35 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
36 the California Code of Regulations) of that individual.

37 (iv) A termination of employment of an individual due to a
38 substantial reduction in the trade or business operations of the
39 taxpayer.

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

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

7 (i) A failure to continue the seasonal employment of a qualified
8 disadvantaged individual who voluntarily fails to return to the
9 seasonal employment of the qualified taxpayer.

10 (ii) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who, before the close of the period
12 referred to in subparagraph (B) of paragraph (1), becomes disabled
13 and unable to perform the services of that seasonal employment,
14 unless that disability is removed before the close of that period
15 and the qualified taxpayer fails to offer seasonal employment to
16 that individual.

17 (iii) A failure to continue the seasonal employment of a qualified
18 disadvantaged individual, if it is determined that the failure to
19 continue the seasonal employment was due to the misconduct (as
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
21 the California Code of Regulations) of that qualified disadvantaged
22 individual.

23 (iv) A failure to continue seasonal employment of a qualified
24 disadvantaged individual due to a substantial reduction in the
25 regular seasonal trade or business operations of the qualified
26 taxpayer.

27 (v) A failure to continue the seasonal employment of a qualified
28 disadvantaged individual, if that individual is replaced by other
29 qualified displaced employees so as to create a net increase in both
30 the number of seasonal employees and the hours of seasonal
31 employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and an employee shall not be treated as
34 terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the employee continues to
36 be employed in that trade or business and the taxpayer retains a
37 substantial interest in that trade or business.

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

1 (4) At the close of the second taxable year, if the taxpayer has
2 not increased the number of its employees as determined by
3 paragraph (5) of subdivision (b), then the amount of the credit
4 previously claimed shall be added to the taxpayer's net tax for the
5 taxpayer's second taxable year.

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

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

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

13 (g) The credit shall be reduced by the credit allowed under
14 Section 17053.7. The credit shall also be reduced by the federal
15 credit allowed under Section 51 of the Internal Revenue Code.

16 In addition, any deduction otherwise allowed under this part for
17 the wages or salaries paid or incurred by the taxpayer upon which
18 the credit is based shall be reduced by the amount of the credit,
19 prior to any reduction required by subdivision (h) or (i).

20 (h) In the case where the credit otherwise allowed under this
21 section exceeds the "net tax" for the taxable year, that portion of
22 the credit that exceeds the "net tax" may be carried over and added
23 to the credit, if any, in succeeding years, until the credit is
24 exhausted. The credit shall be applied first to the earliest taxable
25 years possible.

26 (i) (1) The amount of credit otherwise allowed under this section
27 and Section 17053.45, including prior year credit carryovers, that
28 may reduce the "net tax" for the taxable year shall not exceed the
29 amount of tax that would be imposed on the taxpayer's business
30 income attributed to a LAMBRA determined as if that attributed
31 income represented all of the net income of the taxpayer subject
32 to tax under this part.

33 (2) Attributable income shall be that portion of the taxpayer's
34 California source business income that is apportioned to the
35 LAMBRA. For that purpose, the taxpayer's business income that
36 is attributable to sources in this state first shall be determined in
37 accordance with Chapter 17 (commencing with Section 25101) of
38 Part 11. That business income shall be further apportioned to the
39 LAMBRA in accordance with Article 2 (commencing with Section

1 25120) of Chapter 17 of Part 11, modified for purposes of this
2 section in accordance with paragraph (3).

3 (3) Income shall be apportioned to a LAMBRA by multiplying
4 the total California business income of the taxpayer by a fraction,
5 the numerator of which is the property factor plus the payroll factor,
6 and the denominator of which is two. For purposes of this
7 paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the LAMBRA during the
11 taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the LAMBRA during the
16 taxable year for compensation, and the denominator of which is
17 the total compensation paid by the taxpayer in this state during the
18 taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "net tax" for the
22 taxable year, as provided in subdivision (h).

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

27 *(k) If a taxpayer relocated to a LAMBRA from within the state*
28 *during any taxable year beginning on or after January 1, 2011,*
29 *the taxpayer shall be allowed a credit for the taxable year only*
30 *for that number of employees that exceeds the number of employees*
31 *at the previous location. The number of employees at the previous*
32 *location and the type of jobs undertaken shall be established by*
33 *the Employment Development Department. Exceptions to this*
34 *subdivision shall be limited to the following:*

35 *(1) Employees, who undertake core work activities or activities*
36 *that are the primary job duties of the employee that are*
37 *significantly different from those activities at the previous location,*
38 *as determined by the Employment Development Department.*

39 *(2) Employees of taxpayers that receive a bona fide offer to*
40 *relocate to another state.*

1 (3) *Employees, who relocate as a result of a natural disaster,*
2 *civic unrest, or eminent domain proceeding.*

3 *SEC. 3. Section 17053.47 of the Revenue and Taxation Code*
4 *is amended to read:*

5 17053.47. (a) For each taxable year beginning on or after
6 January 1, 1998, there shall be allowed a credit against the “net
7 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
8 a qualified disadvantaged individual during the taxable year for
9 employment in the manufacturing enhancement area. The credit
10 shall be equal to the sum of each of the following:

11 (1) Fifty percent of the qualified wages in the first year of
12 employment.

13 (2) Forty percent of the qualified wages in the second year of
14 employment.

15 (3) Thirty percent of the qualified wages in the third year of
16 employment.

17 (4) Twenty percent of the qualified wages in the fourth year of
18 employment.

19 (5) Ten percent of the qualified wages in the fifth year of
20 employment.

21 (b) For purposes of this section:

22 (1) “Qualified wages” means:

23 (A) That portion of wages paid or incurred by the qualified
24 taxpayer during the taxable year to qualified disadvantaged
25 individuals that does not exceed 150 percent of the minimum wage.

26 (B) The total amount of qualified wages which may be taken
27 into account for purposes of claiming the credit allowed under this
28 section shall not exceed two million dollars (\$2,000,000) per
29 taxable year.

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

37 (D) Qualified wages do not include any wages paid or incurred
38 by the qualified taxpayer on or after the manufacturing
39 enhancement area expiration date. However, wages paid or incurred
40 with respect to qualified employees who are employed by the

1 qualified taxpayer within the manufacturing enhancement area
2 within the 60-month period prior to the manufacturing enhancement
3 area expiration date shall continue to qualify for the credit under
4 this section after the manufacturing enhancement area expiration
5 date, in accordance with all provisions of this section applied as
6 if the manufacturing enhancement area designation were still in
7 existence and binding.

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

12 (3) “Manufacturing enhancement area” means an area designated
13 pursuant to Section 7073.8 of the Government Code according to
14 the procedures of Chapter 12.8 (commencing with Section 7070)
15 of Division 7 of Title 1 of the Government Code.

16 (4) “Manufacturing enhancement area expiration date” means
17 the date the manufacturing enhancement area designation expires,
18 is no longer binding, or becomes inoperative.

19 (5) “Qualified disadvantaged individual” means an individual
20 who satisfies all of the following requirements:

21 (A) (i) At least 90 percent of whose services for the qualified
22 taxpayer during the taxable year are directly related to the conduct
23 of the qualified taxpayer’s trade or business located in a
24 manufacturing enhancement area.

25 (ii) Who performs at least 50 percent of his or her services for
26 the qualified taxpayer during the taxable year in the manufacturing
27 enhancement area.

28 (B) Who is hired by the qualified taxpayer after the designation
29 of the area as a manufacturing enhancement area in which the
30 individual’s services were primarily performed.

31 (C) Who is any of the following immediately preceding the
32 individual’s commencement of employment with the qualified
33 taxpayer:

34 (i) An individual who has been determined eligible for services
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.
36 1501 et seq.), or its successor.

37 (ii) Any voluntary or mandatory registrant under the Greater
38 Avenues for Independence Act of 1985, or its successor, as
39 provided pursuant to Article 3.2 (commencing with Section 11320)

1 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
2 Code.

3 (iii) Any individual who has been certified eligible by the
4 Employment Development Department under the federal Targeted
5 Jobs Tax Credit Program, or its successor, whether or not this
6 program is in effect.

7 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
8 or business within a manufacturing enhancement area designated
9 pursuant to Section 7073.8 of the Government Code and who meets
10 all of the following requirements:

11 (A) Is engaged in those lines of business described in Codes
12 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
13 inclusive, of the Standard Industrial Classification (SIC) Manual
14 published by the United States Office of Management and Budget,
15 1987 edition.

16 (B) At least 50 percent of the qualified taxpayer’s workforce
17 hired after the designation of the manufacturing enhancement area
18 is composed of individuals who, at the time of hire, are residents
19 of the county in which the manufacturing enhancement area is
20 located.

21 (C) Of this percentage of local hires, at least 30 percent shall
22 be qualified disadvantaged individuals.

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

26 (c) (1) For purposes of this section, all of the following apply:

27 (A) All employees of trades or businesses that are under
28 common control shall be treated as employed by a single qualified
29 taxpayer.

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

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

37 (2) If a qualified taxpayer acquires the major portion of a trade
38 or business of another employer (hereinafter in this paragraph
39 referred to as the “predecessor”) or the major portion of a separate
40 unit of a trade or business of a predecessor, then, for purposes of

1 applying this section (other than subdivision (d)) for any calendar
2 year ending after that acquisition, the employment relationship
3 between a qualified disadvantaged individual and a qualified
4 taxpayer shall not be treated as terminated if the qualified
5 disadvantaged individual continues to be employed in that trade
6 or business.

7 (d) (1) (A) If the employment, other than seasonal employment,
8 of any qualified disadvantaged individual, with respect to whom
9 qualified wages are taken into account under subdivision (b) is
10 terminated by the qualified taxpayer at any time during the first
11 270 days of that employment (whether or not consecutive) or before
12 the close of the 270th calendar day after the day in which that
13 qualified disadvantaged individual completes 90 days of
14 employment with the qualified taxpayer, the tax imposed by this
15 part for the taxable year in which that employment is terminated
16 shall be increased by an amount equal to the credit allowed under
17 subdivision (a) for that taxable year and all prior taxable years
18 attributable to qualified wages paid or incurred with respect to that
19 qualified disadvantaged individual.

20 (B) If the seasonal employment of any qualified disadvantaged
21 individual, with respect to whom qualified wages are taken into
22 account under subdivision (a) is not continued by the qualified
23 taxpayer for a period of 270 days of employment during the
24 60-month period beginning with the day the qualified
25 disadvantaged individual commences seasonal employment with
26 the qualified taxpayer, the tax imposed by this part, for the taxable
27 year that includes the 60th month following the month in which
28 the qualified disadvantaged individual commences seasonal
29 employment with the qualified taxpayer, shall be increased by an
30 amount equal to the credit allowed under subdivision (a) for that
31 taxable year and all prior taxable years attributable to qualified
32 wages paid or incurred with respect to that qualified disadvantaged
33 individual.

34 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
35 any of the following:

36 (i) A termination of employment of a qualified disadvantaged
37 individual who voluntarily leaves the employment of the qualified
38 taxpayer.

39 (ii) A termination of employment of a qualified disadvantaged
40 individual who, before the close of the period referred to in

1 subparagraph (A) of paragraph (1), becomes disabled to perform
2 the services of that employment, unless that disability is removed
3 before the close of that period and the taxpayer fails to offer
4 reemployment to that individual.

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

9 (iv) A termination of employment of a qualified disadvantaged
10 individual due to a substantial reduction in the trade or business
11 operations of the qualified taxpayer.

12 (v) A termination of employment of a qualified disadvantaged
13 individual, if that individual is replaced by other qualified
14 disadvantaged individuals so as to create a net increase in both the
15 number of employees and the hours of employment.

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

18 (i) A failure to continue the seasonal employment of a qualified
19 disadvantaged individual who voluntarily fails to return to the
20 seasonal employment of the qualified taxpayer.

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

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

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

38 (v) A failure to continue the seasonal employment of a qualified
39 disadvantaged individual, if that qualified disadvantaged individual
40 is replaced by other qualified disadvantaged individuals so as to

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

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

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

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

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

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

20 (f) The credit shall be reduced by the credit allowed under
21 Section 17053.7. The credit shall also be reduced by the federal
22 credit allowed under Section 51 of the Internal Revenue Code.

23 In addition, any deduction otherwise allowed under this part for
24 the wages or salaries paid or incurred by the qualified taxpayer
25 upon which the credit is based shall be reduced by the amount of
26 the credit, prior to any reduction required by subdivision (g) or
27 (h).

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

34 (h) (1) The amount of credit otherwise allowed under this
35 section, including prior year credit carryovers, that may reduce
36 the “net tax” for the taxable year shall not exceed the amount of
37 tax that would be imposed on the qualified taxpayer’s business
38 income attributed to a manufacturing enhancement area determined
39 as if that attributed income represented all of the net income of the
40 qualified taxpayer subject to tax under this part.

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

11 (3) Income shall be apportioned to a manufacturing enhancement
12 area by multiplying the total California business income of the
13 taxpayer by a fraction, the numerator of which is the property
14 factor plus the payroll factor, and the denominator of which is two.
15 For purposes of this paragraph:

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

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the manufacturing
25 enhancement area during the taxable year for compensation, and
26 the denominator of which is the total compensation paid by the
27 taxpayer in this state during the taxable year.

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

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

36 (j) The qualified taxpayer shall do both of the following:

37 (1) Obtain from the Employment Development Department, as
38 permitted by federal law, the local county or city Job Training
39 Partnership Act administrative entity, the local county GAIN office
40 or social services agency, or the local government administering

1 the manufacturing enhancement area, a certification that provides
 2 that a qualified disadvantaged individual meets the eligibility
 3 requirements specified in paragraph (5) of subdivision (b). The
 4 Employment Development Department may provide preliminary
 5 screening and referral to a certifying agency. The Department of
 6 Housing and Community Development shall develop regulations
 7 governing the issuance of certificates pursuant to subdivision (d)
 8 of Section 7086 of the Government Code and shall develop forms
 9 for this purpose.

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

12 *(k) If a taxpayer relocated to a manufacturing enhancement*
 13 *area from within the state during any taxable year beginning on*
 14 *or after January 1, 2011, the taxpayer shall be allowed a credit*
 15 *for the taxable year only for that number of employees that exceeds*
 16 *the number of employees at the previous location. The number of*
 17 *employees at the previous location and the type of jobs undertaken*
 18 *shall be established by the Employment Development Department.*
 19 *Exceptions to this subdivision shall be limited to the following:*

20 *(1) Employees, who undertake core work activities or activities*
 21 *that are the primary job duties of the employee that are*
 22 *significantly different from those activities at the previous location,*
 23 *as determined by the Employment Development Department.*

24 *(2) Employees of taxpayers that receive a bona fide offer to*
 25 *relocate to another state.*

26 *(3) Employees, who relocate as a result of a natural disaster,*
 27 *civic unrest, or eminent domain proceeding.*

28 *SEC. 4. Section 17053.74 of the Revenue and Taxation Code*
 29 *is amended to read:*

30 17053.74. (a) There shall be allowed a credit against the “net
 31 tax” (as defined in Section 17039) to a taxpayer who employs a
 32 qualified employee in an enterprise zone during the taxable year.
 33 The credit shall be equal to the sum of each of the following:

34 (1) Fifty percent of qualified wages in the first year of
 35 employment.

36 (2) Forty percent of qualified wages in the second year of
 37 employment.

38 (3) Thirty percent of qualified wages in the third year of
 39 employment.

1 (4) Twenty percent of qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

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

10 (ii) For up to 1,350 qualified employees who are employed by
11 the taxpayer in the Long Beach Enterprise Zone in aircraft
12 manufacturing activities described in Codes 3721 to 3728,
13 inclusive, and Code 3812 of the Standard Industrial Classification
14 (SIC) Manual published by the United States Office of
15 Management and Budget, 1987 edition, “qualified wages” means
16 that portion of hourly wages that does not exceed 202 percent of
17 the minimum wage.

18 (B) Wages received during the 60-month period beginning with
19 the first day the employee commences employment with the
20 taxpayer. Reemployment in connection with any increase, including
21 a regularly occurring seasonal increase, in the trade or business
22 operations of the taxpayer does not constitute commencement of
23 employment for purposes of this section.

24 (C) Qualified wages do not include any wages paid or incurred
25 by the taxpayer on or after the zone expiration date. However,
26 wages paid or incurred with respect to qualified employees who
27 are employed by the taxpayer within the enterprise zone within
28 the 60-month period prior to the zone expiration date shall continue
29 to qualify for the credit under this section after the zone expiration
30 date, in accordance with all provisions of this section applied as
31 if the enterprise zone designation were still in existence and
32 binding.

33 (2) “Minimum wage” means the wage established by the
34 Industrial Welfare Commission as provided for in Chapter 1
35 (commencing with Section 1171) of Part 4 of Division 2 of the
36 Labor Code.

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

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

- 1 (i) At least 90 percent of whose services for the taxpayer during
- 2 the taxable year are directly related to the conduct of the taxpayer's
- 3 trade or business located in an enterprise zone.
- 4 (ii) Performs at least 50 percent of his or her services for the
- 5 taxpayer during the taxable year in an enterprise zone.
- 6 (iii) Is hired by the taxpayer after the date of original designation
- 7 of the area in which services were performed as an enterprise zone.
- 8 (iv) Is any of the following:
- 9 (I) Immediately preceding the qualified employee's
- 10 commencement of employment with the taxpayer, was a person
- 11 eligible for services under the federal Job Training Partnership
- 12 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
- 13 or is eligible to receive, subsidized employment, training, or
- 14 services funded by the federal Job Training Partnership Act, or its
- 15 successor.
- 16 (II) Immediately preceding the qualified employee's
- 17 commencement of employment with the taxpayer, was a person
- 18 eligible to be a voluntary or mandatory registrant under the Greater
- 19 Avenues for Independence Act of 1985 (GAIN) provided for
- 20 pursuant to Article 3.2 (commencing with Section 11320) of
- 21 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
- 22 Code, or its successor.
- 23 (III) Immediately preceding the qualified employee's
- 24 commencement of employment with the taxpayer, was an
- 25 economically disadvantaged individual 14 years of age or older.
- 26 (IV) Immediately preceding the qualified employee's
- 27 commencement of employment with the taxpayer, was a dislocated
- 28 worker who meets any of the following:
- 29 (aa)
- 30 (ia) Has been terminated or laid off or who has received a notice
- 31 of termination or layoff from employment, is eligible for or has
- 32 exhausted entitlement to unemployment insurance benefits, and
- 33 is unlikely to return to his or her previous industry or occupation.
- 34 (bb)
- 35 (ib) Has been terminated or has received a notice of termination
- 36 of employment as a result of any permanent closure or any
- 37 substantial layoff at a plant, facility, or enterprise, including an
- 38 individual who has not received written notification but whose
- 39 employer has made a public announcement of the closure or layoff.
- 40 (ee)

1 *(ic)* Is long-term unemployed and has limited opportunities for
2 employment or reemployment in the same or a similar occupation
3 in the area in which the individual resides, including an individual
4 55 years of age or older who may have substantial barriers to
5 employment by reason of age.

6 ~~(dd)~~

7 *(id)* Was self-employed (including farmers and ranchers) and
8 is unemployed as a result of general economic conditions in the
9 community in which he or she resides or because of natural
10 disasters.

11 ~~(ee)~~

12 *(ie)* Was a civilian employee of the Department of Defense
13 employed at a military installation being closed or realigned under
14 the Defense Base Closure and Realignment Act of 1990.

15 ~~(ff)~~

16 *(if)* Was an active member of the armed forces or National Guard
17 as of September 30, 1990, and was either involuntarily separated
18 or separated pursuant to a special benefits program.

19 ~~(gg)~~

20 *(ig)* Is a seasonal or migrant worker who experiences chronic
21 seasonal unemployment and underemployment in the agriculture
22 industry, aggravated by continual advancements in technology and
23 mechanization.

24 ~~(hh)~~

25 *(ih)* Has been terminated or laid off, or has received a notice of
26 termination or layoff, as a consequence of compliance with the
27 Clean Air Act.

28 (V) Immediately preceding the qualified employee's
29 commencement of employment with the taxpayer, was a disabled
30 individual who is eligible for or enrolled in, or has completed a
31 state rehabilitation plan or is a service-connected disabled veteran,
32 veteran of the Vietnam era, or veteran who is recently separated
33 from military service.

34 (VI) Immediately preceding the qualified employee's
35 commencement of employment with the taxpayer, was an
36 ex-offender. An individual shall be treated as convicted if he or
37 she was placed on probation by a state court without a finding of
38 guilt.

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

- 4 ~~(aa)~~
- 5 (ia) Federal Supplemental Security Income benefits.
- 6 ~~(bb)~~
- 7 (ib) Aid to Families with Dependent Children.
- 8 ~~(ee)~~
- 9 (ic) Food stamps.
- 10 ~~(dd)~~
- 11 (id) State and local general assistance.

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

16 (IX) Immediately preceding the qualified employee’s
17 commencement of employment with the taxpayer, was a resident
18 of a targeted employment area, as defined in Section 7072 of the
19 Government Code.

20 (X) An employee who qualified the taxpayer for the enterprise
21 zone hiring credit under former Section 17053.8 or the program
22 area hiring credit under former Section 17053.11.

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

27 (B) Priority for employment shall be provided to an individual
28 who is enrolled in a qualified program under the federal Job
29 Training Partnership Act or the Greater Avenues for Independence
30 Act of 1985 or who is eligible as a member of a targeted group
31 under the Work Opportunity Tax Credit (Section 51 of the Internal
32 Revenue Code), or its successor.

33 (5) “Taxpayer” means a person or entity engaged in a trade or
34 business within an enterprise zone designated pursuant to Chapter
35 12.8 (commencing with Section 7070) of the Government Code.

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

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

1 (1) Obtain from the Employment Development Department, as
2 permitted by federal law, the local county or city Job Training
3 Partnership Act administrative entity, the local county GAIN office
4 or social services agency, or the local government administering
5 the enterprise zone, a certification which provides that a qualified
6 employee meets the eligibility requirements specified in clause
7 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
8 Employment Development Department may provide preliminary
9 screening and referral to a certifying agency. The Employment
10 Development Department shall develop a form for this purpose.
11 The Department of Housing and Community Development shall
12 develop regulations governing the issuance of certificates by local
13 governments pursuant to subdivision (a) of Section 7086 of the
14 Government Code.

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

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

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

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

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

28 (2) If an employer acquires the major portion of a trade or
29 business of another employer (hereinafter in this paragraph referred
30 to as the “predecessor”) or the major portion of a separate unit of
31 a trade or business of a predecessor, then, for purposes of applying
32 this section (other than subdivision (e)) for any calendar year
33 ending after that acquisition, the employment relationship between
34 a qualified employee and an employer shall not be treated as
35 terminated if the employee continues to be employed in that trade
36 or business.

37 (e) (1) (A) If the employment, other than seasonal employment,
38 of any qualified employee, with respect to whom qualified wages
39 are taken into account under subdivision (a) is terminated by the
40 taxpayer at any time during the first 270 days of that employment

1 (whether or not consecutive) or before the close of the 270th
 2 calendar day after the day in which that employee completes 90
 3 days of employment with the taxpayer, the tax imposed by this
 4 part for the taxable year in which that employment is terminated
 5 shall be increased by an amount equal to the credit allowed under
 6 subdivision (a) for that taxable year and all prior taxable years
 7 attributable to qualified wages paid or incurred with respect to that
 8 employee.

9 (B) If the seasonal employment of any qualified employee, with
 10 respect to whom qualified wages are taken into account under
 11 subdivision (a) is not continued by the taxpayer for a period of
 12 270 days of employment during the 60-month period beginning
 13 with the day the qualified employee commences seasonal
 14 employment with the taxpayer, the tax imposed by this part, for
 15 the taxable year that includes the 60th month following the month
 16 in which the qualified employee commences seasonal employment
 17 with the taxpayer, shall be increased by an amount equal to the
 18 credit allowed under subdivision (a) for that taxable year and all
 19 prior taxable years attributable to qualified wages paid or incurred
 20 with respect to that qualified employee.

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

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

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

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

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

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

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

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

6 (ii) A failure to continue the seasonal employment of a qualified
7 employee who, before the close of the period referred to in
8 subparagraph (B) of paragraph (1), becomes disabled and unable
9 to perform the services of that seasonal employment, unless that
10 disability is removed before the close of that period and the
11 taxpayer fails to offer seasonal employment to that qualified
12 employee.

13 (iii) A failure to continue the seasonal employment of a qualified
14 employee, if it is determined that the failure to continue the
15 seasonal employment was due to the misconduct (as defined in
16 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
17 Code of Regulations) of that qualified employee.

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

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

25 (C) For purposes of paragraph (1), the employment relationship
26 between the taxpayer and a qualified employee shall not be treated
27 as terminated by reason of a mere change in the form of conducting
28 the trade or business of the taxpayer, if the qualified employee
29 continues to be employed in that trade or business and the taxpayer
30 retains a substantial interest in that trade or business.

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

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

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

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

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

5 (h) The credit allowable under this section shall be reduced by
6 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
7 claimed for the same employee. The credit shall also be reduced
8 by the federal credit allowed under Section 51 of the Internal
9 Revenue Code.

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

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

20 (j) (1) The amount of the credit otherwise allowed under this
21 section and Section 17053.70, including any credit carryover from
22 prior years, that may reduce the “net tax” for the taxable year shall
23 not exceed the amount of tax which would be imposed on the
24 taxpayer’s business income attributable to the enterprise zone
25 determined as if that attributable income represented all of the
26 income of the taxpayer subject to tax under this part.

27 (2) Attributable income shall be that portion of the taxpayer’s
28 California source business income that is apportioned to the
29 enterprise zone. For that purpose, the taxpayer’s business income
30 attributable to sources in this state first shall be determined in
31 accordance with Chapter 17 (commencing with Section 25101) of
32 Part 11. That business income shall be further apportioned to the
33 enterprise zone in accordance with Article 2 (commencing with
34 Section 25120) of Chapter 17 of Part 11, modified for purposes
35 of this section in accordance with paragraph (3).

36 (3) Business income shall be apportioned to the enterprise zone
37 by multiplying the total California business income of the taxpayer
38 by a fraction, the numerator of which is the property factor plus
39 the payroll factor, and the denominator of which is two. For
40 purposes of this paragraph:

1 (A) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the enterprise zone during
4 the taxable year, and the denominator of which is the average value
5 of all the taxpayer's real and tangible personal property owned or
6 rented and used in this state during the taxable year.

7 (B) The payroll factor is a fraction, the numerator of which is
8 the total amount paid by the taxpayer in the enterprise zone during
9 the taxable year for compensation, and the denominator of which
10 is the total compensation paid by the taxpayer in this state during
11 the taxable year.

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

16 *(k) If a taxpayer relocated to an enterprise zone from within the*
17 *state during any taxable year beginning on or after January 1,*
18 *2011, the taxpayer shall be allowed a credit for the taxable year*
19 *only for that number of employees that exceeds the number of*
20 *employees at the previous location. The number of employees at*
21 *the previous location and the type of jobs undertaken shall be*
22 *established by the Employment Development Department.*
23 *Exceptions to this subdivision shall be limited to the following:*

24 *(1) Employees, who undertake core work activities or activities*
25 *that are the primary job duties of the employee that are*
26 *significantly different from those activities at the previous location,*
27 *as determined by the Employment Development Department.*

28 *(2) Employees of taxpayers that receive a bona fide offer to*
29 *relocate to another state.*

30 *(3) Employees, who relocate as a result of a natural disaster,*
31 *civic unrest, or eminent domain proceeding.*

32 ~~(k)~~

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

36 *SEC. 5. Section 23622.7 of the Revenue and Taxation Code is*
37 *amended to read:*

38 23622.7. (a) There shall be allowed a credit against the "tax"
39 (as defined by Section 23036) to a taxpayer who employs a

1 qualified employee in an enterprise zone during the taxable year.

2 The credit shall be equal to the sum of each of the following:

3 (1) Fifty percent of qualified wages in the first year of
4 employment.

5 (2) Forty percent of qualified wages in the second year of
6 employment.

7 (3) Thirty percent of qualified wages in the third year of
8 employment.

9 (4) Twenty percent of qualified wages in the fourth year of
10 employment.

11 (5) Ten percent of qualified wages in the fifth year of
12 employment.

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

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

18 (ii) For up to 1,350 qualified employees who are employed by
19 the taxpayer in the Long Beach Enterprise Zone in aircraft
20 manufacturing activities described in Codes 3721 to 3728,
21 inclusive, and Code 3812 of the Standard Industrial Classification
22 (SIC) Manual published by the United States Office of
23 Management and Budget, 1987 edition, “qualified wages” means
24 that portion of hourly wages that does not exceed 202 percent of
25 the minimum wage.

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

32 (C) Qualified wages do not include any wages paid or incurred
33 by the taxpayer on or after the zone expiration date. However,
34 wages paid or incurred with respect to qualified employees who
35 are employed by the taxpayer within the enterprise zone within
36 the 60-month period prior to the zone expiration date shall continue
37 to qualify for the credit under this section after the zone expiration
38 date, in accordance with all provisions of this section applied as
39 if the enterprise zone designation were still in existence and
40 binding.

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

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

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

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

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

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

16 (iv) Is any of the following:

17 (I) Immediately preceding the qualified employee’s
18 commencement of employment with the taxpayer, was a person
19 eligible for services under the federal Job Training Partnership
20 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
21 or is eligible to receive, subsidized employment, training, or
22 services funded by the federal Job Training Partnership Act, or its
23 successor.

24 (II) Immediately preceding the qualified employee’s
25 commencement of employment with the taxpayer, was a person
26 eligible to be a voluntary or mandatory registrant under the Greater
27 Avenues for Independence Act of 1985 (GAIN) provided for
28 pursuant to Article 3.2 (commencing with Section 11320) of
29 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
30 Code, or its successor.

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

34 (IV) Immediately preceding the qualified employee’s
35 commencement of employment with the taxpayer, was a dislocated
36 worker who meets any of the following:

37 (aa)

38 (ia) Has been terminated or laid off or who has received a notice
39 of termination or layoff from employment, is eligible for or has

- 1 exhausted entitlement to unemployment insurance benefits, and
- 2 is unlikely to return to his or her previous industry or occupation.
- 3 ~~(bb)~~
- 4 *(ib)* Has been terminated or has received a notice of termination
- 5 of employment as a result of any permanent closure or any
- 6 substantial layoff at a plant, facility, or enterprise, including an
- 7 individual who has not received written notification but whose
- 8 employer has made a public announcement of the closure or layoff.
- 9 ~~(ee)~~
- 10 *(ic)* Is long-term unemployed and has limited opportunities for
- 11 employment or reemployment in the same or a similar occupation
- 12 in the area in which the individual resides, including an individual
- 13 55 years of age or older who may have substantial barriers to
- 14 employment by reason of age.
- 15 ~~(dd)~~
- 16 *(id)* Was self-employed (including farmers and ranchers) and
- 17 is unemployed as a result of general economic conditions in the
- 18 community in which he or she resides or because of natural
- 19 disasters.
- 20 ~~(ee)~~
- 21 *(ie)* Was a civilian employee of the Department of Defense
- 22 employed at a military installation being closed or realigned under
- 23 the Defense Base Closure and Realignment Act of 1990.
- 24 ~~(ff)~~
- 25 *(if)* Was an active member of the armed forces or National Guard
- 26 as of September 30, 1990, and was either involuntarily separated
- 27 or separated pursuant to a special benefits program.
- 28 ~~(gg)~~
- 29 *(ig)* Is a seasonal or migrant worker who experiences chronic
- 30 seasonal unemployment and underemployment in the agriculture
- 31 industry, aggravated by continual advancements in technology and
- 32 mechanization.
- 33 ~~(hh)~~
- 34 *(ih)* Has been terminated or laid off, or has received a notice of
- 35 termination or layoff, as a consequence of compliance with the
- 36 Clean Air Act.
- 37 (V) Immediately preceding the qualified employee's
- 38 commencement of employment with the taxpayer, was a disabled
- 39 individual who is eligible for or enrolled in, or has completed a
- 40 state rehabilitation plan or is a service-connected disabled veteran,

1 veteran of the Vietnam era, or veteran who is recently separated
2 from military service.

3 (VI) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was an
5 ex-offender. An individual shall be treated as convicted if he or
6 she was placed on probation by a state court without a finding of
7 guilt.

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

11 ~~(aa)~~

12 *(ia)* Federal Supplemental Security Income benefits.

13 ~~(bb)~~

14 *(ib)* Aid to Families with Dependent Children.

15 ~~(ee)~~

16 *(ic)* Food stamps.

17 ~~(dd)~~

18 *(id)* State and local general assistance.

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

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

27 (X) An employee who qualified the taxpayer for the enterprise
28 zone hiring credit under former Section 23622 or the program area
29 hiring credit under former Section 23623.

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

34 (B) Priority for employment shall be provided to an individual
35 who is enrolled in a qualified program under the federal Job
36 Training Partnership Act or the Greater Avenues for Independence
37 Act of 1985 or who is eligible as a member of a targeted group
38 under the Work Opportunity Tax Credit (Section 51 of the Internal
39 Revenue Code), or its successor.

1 (5) “Taxpayer” means a corporation engaged in a trade or
2 business within an enterprise zone designated pursuant to Chapter
3 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
4 the Government Code.

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

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

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

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

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

26 (A) All employees of all corporations which are members of
27 the same controlled group of corporations shall be treated as
28 employed by a single taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (v) A failure to continue the seasonal employment of a qualified
39 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 either of the following:

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

9 (ii) By reason of a mere change in the form of conducting the
10 trade or business of the taxpayer, if the qualified employee
11 continues to be employed in that trade or business and the taxpayer
12 retains a substantial interest in that trade or business.

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

16 (f) Rules similar to the rules provided in Section 46(e) and (h)
17 of the Internal Revenue Code shall apply to both of the following:

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

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

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

26 (h) The credit allowable under this section shall be reduced by
27 the credit allowed under Sections 23623.5, 23625, and 23646
28 claimed for the same employee. The credit shall also be reduced
29 by the federal credit allowed under Section 51 of the Internal
30 Revenue Code.

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

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

1 (j) (1) The amount of the credit otherwise allowed under this
2 section and Section 23612.2, including any credit carryover from
3 prior years, that may reduce the “tax” for the taxable year shall
4 not exceed the amount of tax which would be imposed on the
5 taxpayer’s business income attributable to the enterprise zone
6 determined as if that attributable income represented all of the
7 income of the taxpayer subject to tax under this part.

8 (2) Attributable income shall be that portion of the taxpayer’s
9 California source business income that is apportioned to the
10 enterprise zone. For that purpose, the taxpayer’s business
11 attributable to sources in this state first shall be determined in
12 accordance with Chapter 17 (commencing with Section 25101).
13 That business income shall be further apportioned to the enterprise
14 zone in accordance with Article 2 (commencing with Section
15 25120) of Chapter 17, modified for purposes of this section in
16 accordance with paragraph (3).

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

22 (A) The property factor is a fraction, the numerator of which is
23 the average value of the taxpayer’s real and tangible personal
24 property owned or rented and used in the enterprise zone during
25 the income year, and the denominator of which is the average value
26 of all the taxpayer’s real and tangible personal property owned or
27 rented and used in this state during the income year.

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

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

37 (k) *If a taxpayer relocated to an enterprise zone from within the*
38 *state during any taxable year beginning on or after January 1,*
39 *2011, the taxpayer shall be allowed a credit for the taxable year*
40 *only for that number of employees that exceeds the number of*

1 *employees at the previous location. The number of employees at*
2 *the previous location and the type of jobs undertaken shall be*
3 *established by the Employment Development Department.*

4 *Exceptions to this subdivision shall be limited to the following:*

5 (1) *Employees, who undertake core work activities or activities*
6 *that are the primary job duties of the employee that are*
7 *significantly different from those activities at the previous location,*
8 *as determined by the Employment Development Department.*

9 (2) *Employees of taxpayers that receive a bona fide offer to*
10 *relocate to another state.*

11 (3) *Employees, who relocate as a result of a natural disaster,*
12 *civic unrest, or eminent domain proceeding.*

13 ~~(4)~~

14 (l) *The changes made to this section by the act adding this*
15 *subdivision shall apply to taxable years on or after January 1, 1997.*

16 SEC. 6. *Section 23622.8 of the Revenue and Taxation Code is*
17 *amended to read:*

18 23622.8. (a) *For each taxable year beginning on or after*
19 *January 1, 1998, there shall be allowed a credit against the “tax”*
20 *(as defined in Section 23036) to a qualified taxpayer for hiring a*
21 *qualified disadvantaged individual during the taxable year for*
22 *employment in the manufacturing enhancement area. The credit*
23 *shall be equal to the sum of each of the following:*

24 (1) *Fifty percent of the qualified wages in the first year of*
25 *employment.*

26 (2) *Forty percent of the qualified wages in the second year of*
27 *employment.*

28 (3) *Thirty percent of the qualified wages in the third year of*
29 *employment.*

30 (4) *Twenty percent of the qualified wages in the fourth year of*
31 *employment.*

32 (5) *Ten percent of the qualified wages in the fifth year of*
33 *employment.*

34 (b) *For purposes of this section:*

35 (1) *“Qualified wages” means:*

36 (A) *That portion of wages paid or incurred by the qualified*
37 *taxpayer during the taxable year to qualified disadvantaged*
38 *individuals that does not exceed 150 percent of the minimum wage.*

39 (B) *The total amount of qualified wages which may be taken*
40 *into account for purposes of claiming the credit allowed under this*

1 section shall not exceed two million dollars (\$2,000,000) per
2 taxable year.

3 (C) Wages received during the 60-month period beginning with
4 the first day the qualified disadvantaged individual commences
5 employment with the qualified taxpayer. Reemployment in
6 connection with any increase, including a regularly occurring
7 seasonal increase, in the trade or business operations of the
8 qualified taxpayer does not constitute commencement of
9 employment for purposes of this section.

10 (D) Qualified wages do not include any wages paid or incurred
11 by the qualified taxpayer on or after the manufacturing
12 enhancement area expiration date. However, wages paid or incurred
13 with respect to qualified employees who are employed by the
14 qualified taxpayer within the manufacturing enhancement area
15 within the 60-month period prior to the manufacturing enhancement
16 area expiration date shall continue to qualify for the credit under
17 this section after the manufacturing enhancement area expiration
18 date, in accordance with all provisions of this section applied as
19 if the manufacturing enhancement area designation were still in
20 existence and binding.

21 (2) “Minimum wage” means the wage established by the
22 Industrial Welfare Commission as provided for in Chapter 1
23 (commencing with Section 1171) of Part 4 of Division 2 of the
24 Labor Code.

25 (3) “Manufacturing enhancement area” means an area designated
26 pursuant to Section 7073.8 of the Government Code according to
27 the procedures of Chapter 12.8 (commencing with Section 7070)
28 of Division 7 of Title 1 of the Government Code.

29 (4) “Manufacturing enhancement area expiration date” means
30 the date the manufacturing enhancement area designation expires,
31 is no longer binding, or becomes inoperative.

32 (5) “Qualified disadvantaged individual” means an individual
33 who satisfies all of the following requirements:

34 (A) (i) At least 90 percent of whose services for the qualified
35 taxpayer during the taxable year are directly related to the conduct
36 of the qualified taxpayer’s trade or business located in a
37 manufacturing enhancement area.

38 (ii) Who performs at least 50 percent of his or her services for
39 the qualified taxpayer during the taxable year in the manufacturing
40 enhancement area.

1 (B) Who is hired by the qualified taxpayer after the designation
2 of the area as a manufacturing enhancement area in which the
3 individual's services were primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the qualified
6 taxpayer:

7 (i) An individual who has been determined eligible for services
8 under the federal Job Training Partnership Act (29 U.S.C. Sec.
9 1501 et seq.) or its successor.

10 (ii) Any voluntary or mandatory registrant under the Greater
11 Avenues for Independence Act of 1985, or its successor, as
12 provided pursuant to Article 3.2 (commencing with Section 11320)
13 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
14 Code.

15 (iii) Any individual who has been certified eligible by the
16 Employment Development Department under the federal Targeted
17 Jobs Tax Credit Program, or its successor, whether or not this
18 program is in effect.

19 (6) "Qualified taxpayer" means any corporation engaged in a
20 trade or business within a manufacturing enhancement area
21 designated pursuant to Section 7073.8 of the Government Code
22 and that meets all of the following requirements:

23 (A) Is engaged in those lines of business described in Codes
24 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
25 inclusive, of the Standard Industrial Classification (SIC) Manual
26 published by the United States Office of Management and Budget,
27 1987 edition.

28 (B) At least 50 percent of the qualified taxpayer's workforce
29 hired after the designation of the manufacturing enhancement area
30 is composed of individuals who, at the time of hire, are residents
31 of the county in which the manufacturing enhancement area is
32 located.

33 (C) Of this percentage of local hires, at least 30 percent shall
34 be qualified disadvantaged individuals.

35 (7) "Seasonal employment" means employment by a qualified
36 taxpayer that has regular and predictable substantial reductions in
37 trade or business operations.

38 (c) (1) For purposes of this section, all of the following apply:

1 (A) All employees of all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single qualified taxpayer.

4 (B) The credit (if any) allowable by this section with respect to
5 each member shall be determined by reference to its proportionate
6 share of the expenses of the qualified wages giving rise to the
7 credit and shall be allocated in that manner.

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

11 (2) If a qualified taxpayer acquires the major portion of a trade
12 or business of another employer (hereinafter in this paragraph
13 referred to as the “predecessor”) or the major portion of a separate
14 unit of a trade or business of a predecessor, then, for purposes of
15 applying this section (other than subdivision (d)) for any calendar
16 year ending after that acquisition, the employment relationship
17 between a qualified disadvantaged individual and a qualified
18 taxpayer shall not be treated as terminated if the qualified
19 disadvantaged individual continues to be employed in that trade
20 or business.

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

34 (B) If the seasonal employment of any qualified disadvantaged
35 individual, with respect to whom qualified wages are taken into
36 account under subdivision (a) is not continued by the qualified
37 taxpayer for a period of 270 days of employment during the
38 60-month period beginning with the day the qualified
39 disadvantaged individual commences seasonal employment with
40 the qualified taxpayer, the tax imposed by this part, for the income

1 year that includes the 60th month following the month in which
2 the qualified disadvantaged individual commences seasonal
3 employment with the qualified taxpayer, shall be increased by an
4 amount equal to the credit allowed under subdivision (a) for that
5 taxable year and all prior taxable years attributable to qualified
6 wages paid or incurred with respect to that qualified disadvantaged
7 individual.

8 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
9 any of the following:

10 (i) A termination of employment of a qualified disadvantaged
11 individual who voluntarily leaves the employment of the qualified
12 taxpayer.

13 (ii) A termination of employment of a qualified disadvantaged
14 individual who, before the close of the period referred to in
15 subparagraph (A) of paragraph (1), becomes disabled to perform
16 the services of that employment, unless that disability is removed
17 before the close of that period and the qualified taxpayer fails to
18 offer reemployment to that individual.

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

23 (iv) A termination of employment of a qualified disadvantaged
24 individual due to a substantial reduction in the trade or business
25 operations of the qualified taxpayer.

26 (v) A termination of employment of a qualified disadvantaged
27 individual, if that individual is replaced by other qualified
28 disadvantaged individuals so as to create a net increase in both the
29 number of employees and the hours of employment.

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

32 (i) A failure to continue the seasonal employment of a qualified
33 disadvantaged individual who voluntarily fails to return to the
34 seasonal employment of the qualified taxpayer.

35 (ii) A failure to continue the seasonal employment of a qualified
36 disadvantaged individual who, before the close of the period
37 referred to in subparagraph (B) of paragraph (1), becomes disabled
38 and unable to perform the services of that seasonal employment,
39 unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to
2 that qualified disadvantaged individual.

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

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

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

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

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

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

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

33 (e) The credit shall be reduced by the credit allowed under
34 Section 23621. The credit shall also be reduced by the federal
35 credit allowed under Section 51 of the Internal Revenue Code.

36 In addition, any deduction otherwise allowed under this part for
37 the wages or salaries paid or incurred by the qualified taxpayer
38 upon which the credit is based shall be reduced by the amount of
39 the credit, prior to any reduction required by subdivision (f) or (g).

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

7 (g) (1) The amount of credit otherwise allowed under this
8 section, including prior year credit carryovers, that may reduce
9 the “tax” for the taxable year shall not exceed the amount of tax
10 that would be imposed on the qualified taxpayer’s business income
11 attributed to a manufacturing enhancement area determined as if
12 that attributed income represented all of the net income of the
13 qualified taxpayer subject to tax under this part.

14 (2) Attributable income is that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 manufacturing enhancement area. For that purpose, the taxpayer’s
17 business income attributable to sources in this state first shall be
18 determined in accordance with Chapter 17 (commencing with
19 Section 25101). That business income shall be further apportioned
20 to the manufacturing enhancement area in accordance with Article
21 2 (commencing with Section 25120) of Chapter 17, modified for
22 purposes of this section in accordance with paragraph (3).

23 (3) Income shall be apportioned to a manufacturing enhancement
24 area by multiplying the total California business income of the
25 taxpayer by a fraction, the numerator of which is the property
26 factor plus the payroll factor, and the denominator of which is two.
27 For the purposes of this paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the manufacturing
31 enhancement area during the taxable year, and the denominator
32 of which is the average value of all the taxpayer’s real and tangible
33 personal property owned or rented and used in this state during
34 the taxable year.

35 (B) The payroll factor is a fraction, the numerator of which is
36 the total amount paid by the taxpayer in the manufacturing
37 enhancement area during the taxable year for compensation, and
38 the denominator of which is the total compensation paid by the
39 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 (g).

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

9 (i) The qualified taxpayer shall do both of the following:

10 (1) Obtain from the Employment Development Department, as
11 permitted by federal law, the local county or city Job Training
12 Partnership Act administrative entity, the local county GAIN office
13 or social services agency, or the local government administering
14 the manufacturing enhancement area, a certification that provides
15 that a qualified disadvantaged individual meets the eligibility
16 requirements specified in paragraph (5) of subdivision (b). The
17 Employment Development Department may provide preliminary
18 screening and referral to a certifying agency. The Department of
19 Housing and Community Development shall develop regulations
20 governing the issuance of certificates pursuant to subdivision (d)
21 of Section 7086 of the Government Code and shall develop forms
22 for this purpose.

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

25 (j) *If a taxpayer relocated to a manufacturing enhancement*
26 *area from within the state during any taxable year beginning on*
27 *or after January 1, 2011, the taxpayer shall be allowed a credit*
28 *for the taxable year only for that number of employees that exceeds*
29 *the number of employees at the previous location. The number of*
30 *employees at the previous location and the type of jobs undertaken*
31 *shall be established by the Employment Development Department.*
32 *Exceptions to this subdivision shall be limited to the following:*

33 (1) *Employees, who undertake core work activities or activities*
34 *that are the primary job duties of the employee that are*
35 *significantly different from those activities at the previous location,*
36 *as determined by the Employment Development Department.*

37 (2) *Employees of taxpayers that receive a bona fide offer to*
38 *relocate to another state.*

39 (3) *Employees, who relocate as a result of a natural disaster,*
40 *civic unrest, or eminent domain proceeding.*

1 *SEC. 7. Section 23634 of the Revenue and Taxation Code is*
2 *amended to read:*

3 23634. (a) For each taxable year beginning on or after January
4 1, 1998, there shall be allowed a credit against the “tax” (as defined
5 by Section 23036) to a qualified taxpayer who employs a qualified
6 employee in a targeted tax area during the taxable year. The credit
7 shall be equal to the sum of each of the following:

8 (1) Fifty percent of qualified wages in the first year of
9 employment.

10 (2) Forty percent of qualified wages in the second year of
11 employment.

12 (3) Thirty percent of qualified wages in the third year of
13 employment.

14 (4) Twenty percent of qualified wages in the fourth year of
15 employment.

16 (5) Ten percent of qualified wages in the fifth year of
17 employment.

18 (b) For purposes of this section:

19 (1) “Qualified wages” means:

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

23 (B) Wages received during the 60-month period beginning with
24 the first day the employee commences employment with the
25 qualified taxpayer. Reemployment in connection with any increase,
26 including a regularly occurring seasonal increase, in the trade or
27 business operations of the qualified taxpayer does not constitute
28 commencement of employment for purposes of this section.

29 (C) Qualified wages do not include any wages paid or incurred
30 by the qualified taxpayer on or after the targeted tax area expiration
31 date. However, wages paid or incurred with respect to qualified
32 employees who are employed by the qualified taxpayer within the
33 targeted tax area within the 60-month period prior to the targeted
34 tax area expiration date shall continue to qualify for the credit
35 under this section after the targeted tax area expiration date, in
36 accordance with all provisions of this section applied as if the
37 targeted tax area designation were still in existence and binding.

38 (2) “Minimum wage” means the wage established by the
39 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

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

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

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

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

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

17 (iv) Is any of the following:

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

25 (II) Immediately preceding the qualified employee’s
26 commencement of employment with the qualified taxpayer, was
27 a person eligible to be a voluntary or mandatory registrant under
28 the Greater Avenues for Independence Act of 1985 (GAIN)
29 provided for pursuant to Article 3.2 (commencing with Section
30 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
31 Institutions Code, or its successor.

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

35 (IV) Immediately preceding the qualified employee’s
36 commencement of employment with the qualified taxpayer, was
37 a dislocated worker who meets any of the following:

38 ~~(aa)~~

39 *(ia)* Has been terminated or laid off or who has received a notice
40 of termination or layoff from employment, is eligible for or has

1 exhausted entitlement to unemployment insurance benefits, and
2 is unlikely to return to his or her previous industry or occupation.

3 ~~(bb)~~

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

9 ~~(ee)~~

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

15 ~~(dd)~~

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

20 ~~(ee)~~

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

24 ~~(ff)~~

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 ~~(gg)~~

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

33 ~~(hh)~~

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

37 (V) Immediately preceding the qualified employee's
38 commencement of employment with the qualified taxpayer, was
39 a disabled individual who is eligible for or enrolled in, or has
40 completed a state rehabilitation plan or is a service-connected

1 disabled veteran, veteran of the Vietnam era, or veteran who is
2 recently separated from military service.

3 (VI) Immediately preceding the qualified employee’s
4 commencement of employment with the qualified taxpayer, was
5 an ex-offender. An individual shall be treated as convicted if he
6 or she was placed on probation by a state court without a finding
7 of guilt.

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

11 ~~(aa)~~
12 *(ia)* Federal Supplemental Security Income benefits.

13 ~~(bb)~~
14 *(ib)* Aid to Families with Dependent Children.

15 ~~(cc)~~
16 *(ic)* Food stamps.

17 ~~(dd)~~
18 *(id)* State and local general assistance.

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

23 (IX) Immediately preceding the qualified employee’s
24 commencement of employment with the qualified taxpayer, was
25 a resident of a targeted tax area.

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

30 (B) Priority for employment shall be provided to an individual
31 who is enrolled in a qualified program under the federal Job
32 Training Partnership Act or the Greater Avenues for Independence
33 Act of 1985 or who is eligible as a member of a targeted group
34 under the Work Opportunity Tax Credit (Section 51 of the Internal
35 Revenue Code), or its successor.

36 (5) (A) “Qualified taxpayer” means a person or entity that meets
37 both of the following:

38 (i) Is engaged in a trade or business within a targeted tax area
39 designated pursuant to Chapter 12.93 (commencing with Section
40 7097) of Division 7 of Title 1 of the Government Code.

1 (ii) Is engaged in those lines of business described in Codes
2 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
3 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
4 of the Standard Industrial Classification (SIC) Manual published
5 by the United States Office of Management and Budget, 1987
6 edition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (B) If the seasonal employment of any qualified employee, with
36 respect to whom qualified wages are taken into account under
37 subdivision (a) is not continued by the qualified taxpayer for a
38 period of 270 days of employment during the 60-month period
39 beginning with the day the qualified employee commences seasonal
40 employment with the qualified taxpayer, the tax imposed by this

1 part, for the taxable year that includes the 60th month following
2 the month in which the qualified employee commences seasonal
3 employment with the qualified taxpayer, shall be increased by an
4 amount equal to the credit allowed under subdivision (a) for that
5 taxable year and all prior taxable years attributable to qualified
6 wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

33 (ii) A failure to continue the seasonal employment of a qualified
34 employee who, before the close of the period referred to in
35 subparagraph (B) of paragraph (1), becomes disabled and unable
36 to perform the services of that seasonal employment, unless that
37 disability is removed before the close of that period and the
38 qualified taxpayer fails to offer seasonal employment to that
39 qualified employee.

1 (iii) A failure to continue the seasonal employment of a qualified
2 employee, if it is determined that the failure to continue the
3 seasonal employment was due to the misconduct (as defined in
4 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
5 Code of Regulations) of that qualified employee.

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

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

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

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

19 (ii) By reason of a mere change in the form of conducting the
20 trade or business of the qualified taxpayer, if the qualified
21 employee continues to be employed in that trade or business and
22 the qualified taxpayer retains a substantial interest in that trade or
23 business.

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

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

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

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

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

36 (i) In the case where the credit otherwise allowed under this
37 section exceeds the “tax” for the taxable year, that portion of the
38 credit that exceeds the “tax” may be carried over and added to the
39 credit, if any, in succeeding taxable years, until the credit is

1 exhausted. The credit shall be applied first to the earliest taxable
2 years possible.

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

11 (2) Attributable income shall be that portion of the taxpayer’s
12 California source business income that is apportioned to the
13 targeted tax area. For that purpose, the taxpayer’s business income
14 attributable to sources in this state first shall be determined in
15 accordance with Chapter 17 (commencing with Section 25101).
16 That business income shall be further apportioned to the targeted
17 tax area in accordance with Article 2 (commencing with Section
18 25120) of Chapter 17, modified for purposes of this section in
19 accordance with paragraph (3).

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

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

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

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

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

6 *(k) If a taxpayer relocated to a targeted tax area from within*
7 *the state during any taxable year beginning on or after January*
8 *1, 2011, the taxpayer shall be allowed a credit for the taxable year*
9 *only for that number of employees that exceeds the number of*
10 *employees at the previous location. The number of employees at*
11 *the previous location and the type of jobs undertaken shall be*
12 *established by the Employment Development Department.*
13 *Exceptions to this subdivision shall be limited to the following:*

14 *(1) Employees, who undertake core work activities or activities*
15 *that are the primary job duties of the employee that are*
16 *significantly different from those activities at the previous location,*
17 *as determined by the Employment Development Department.*

18 *(2) Employees of taxpayers that receive a bona fide offer to*
19 *relocate to another state.*

20 *(3) Employees, who relocate as a result of a natural disaster,*
21 *civic unrest, or eminent domain proceeding.*

22 *SEC. 8. Section 23646 of the Revenue and Taxation Code is*
23 *amended to read:*

24 23646. (a) For each taxable year beginning on or after January
25 1, 1995, there shall be allowed as a credit against the “tax” (as
26 defined in Section 23036) to a qualified taxpayer for hiring a
27 qualified disadvantaged individual or a qualified displaced
28 employee during the taxable year for employment in the LAMBRA.
29 The credit shall be equal to the sum of each of the following:

30 (1) Fifty percent of the qualified wages in the first year of
31 employment.

32 (2) Forty percent of the qualified wages in the second year of
33 employment.

34 (3) Thirty percent of the qualified wages in the third year of
35 employment.

36 (4) Twenty percent of the qualified wages in the fourth year of
37 employment.

38 (5) Ten percent of the qualified wages in the fifth year of
39 employment.

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that does not exceed 150 percent
5 of the minimum wage.

6 (B) The total amount of qualified wages which may be taken
7 into account for purposes of claiming the credit allowed under this
8 section shall not exceed two million dollars (\$2,000,000) per
9 taxable year.

10 (C) Wages received during the 60-month period beginning with
11 the first day the individual commences employment with the
12 taxpayer. Reemployment in connection with any increase, including
13 a regularly occurring seasonal increase, in the trade or business
14 operation of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (D) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the LAMBRA expiration date.
18 However, wages paid or incurred with respect to qualified
19 disadvantaged individuals or qualified displaced employees who
20 are employed by the qualified taxpayer within the LAMBRA within
21 the 60-month period prior to the LAMBRA expiration date shall
22 continue to qualify for the credit under this section after the
23 LAMBRA expiration date, in accordance with all provisions of
24 this section applied as if the LAMBRA designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by the
27 Industrial Welfare Commission as provided for in Chapter 1
28 (commencing with Section 1171) of Part 4 of Division 2 of the
29 Labor Code.

30 (3) “LAMBRA” means a local agency military base recovery
31 area designated in accordance with the provisions of Section 7114
32 of the Government Code.

33 (4) “Qualified disadvantaged individual” means an individual
34 who satisfies all of the following requirements:

35 (A) (i) At least 90 percent of whose services for the taxpayer
36 during the taxable year are directly related to the conduct of the
37 taxpayer’s trade or business located in a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her services for
39 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 (i) An individual who has been determined eligible for services
7 under the federal Job Training Partnership Act (29 U.S.C. Sec.
8 1501 et seq.), or its successor.

9 (ii) Any voluntary or mandatory registrant under the Greater
10 Avenues for Independence Act of 1985 provided for pursuant to
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
12 3 of Division 9 of the Welfare and Institutions Code.

13 (iii) An economically disadvantaged individual age 16 years or
14 older.

15 (iv) A dislocated worker who meets any of the following
16 conditions:

17 (I) Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 (II) Has been terminated or has received a notice of termination
22 of employment as a result of any permanent closure or any
23 substantial layoff at a plant, facility, or enterprise, including an
24 individual who has not received written notification but whose
25 employer has made a public announcement of the closure or layoff.

26 (III) Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 (IV) Was self-employed (including farmers and ranchers) and
32 is unemployed as a result of general economic conditions in the
33 community in which he or she resides or because of natural
34 disasters.

35 (V) Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

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

1 (VII) Experiences chronic seasonal unemployment and
2 underemployment in the agriculture industry, aggravated by
3 continual advancements in technology and mechanization.

4 (VIII) Has been terminated or laid off or has received a notice
5 of termination or layoff as a consequence of compliance with the
6 Clean Air Act.

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a service-connected disabled veteran,
9 veteran of the Vietnam era, or veteran who is recently separated
10 from military service.

11 (vi) An ex-offender. An individual shall be treated as convicted
12 if he or she was placed on probation by a state court without a
13 finding of guilty.

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) Food stamps.

18 (IV) State and local general assistance.

19 (viii) Is a member of a federally recognized Indian tribe, band,
20 or other group of Native American descent.

21 (5) “Qualified taxpayer” means a corporation that conducts a
22 trade or business within a LAMBRA and, for the first two taxable
23 years, has a net increase in jobs (defined as 2,000 paid hours per
24 employee per year) of one or more employees as determined below
25 in the LAMBRA.

26 (A) The net increase in the number of jobs shall be determined
27 by subtracting the total number of full-time employees (defined
28 as 2,000 paid hours per employee per year) the taxpayer employed
29 in this state in the taxable year prior to commencing business
30 operations in the LAMBRA from the total number of full-time
31 employees the taxpayer employed in this state during the second
32 taxable year after commencing business operations in the
33 LAMBRA. For taxpayers who commence doing business in this
34 state with their LAMBRA business operation, the number of
35 employees for the taxable year prior to commencing business
36 operations in the LAMBRA shall be zero. If the taxpayer has a net
37 increase in jobs in the state, the credit shall be allowed only if one
38 or more full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the LAMBRA
40 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a qualified taxpayer that first commences
8 doing business in the LAMBRA during the taxable year, for
9 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
10 the divisors “2,000” and “12” shall be multiplied by a fraction, the
11 numerator of which is the number of months of the taxable year
12 that the taxpayer was doing business in the LAMBRA and the
13 denominator of which is 12.

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 that has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

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

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, or becomes inoperative.

30 (c) For qualified disadvantaged individuals or qualified displaced
31 employees hired on or after January 1, 2001, the taxpayer shall do
32 both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the administrative entity of the local
35 county or city for the federal Job Training Partnership Act, or its
36 successor, the local county GAIN office or social services agency,
37 or the local government administering the LAMBRA, a
38 certification that provides that a qualified disadvantaged individual
39 or qualified displaced employee meets the eligibility requirements
40 specified in subparagraph (C) of paragraph (4) of subdivision (b)

1 or subparagraph (A) of paragraph (6) of subdivision (b). The
2 Employment Development Department may provide preliminary
3 screening and referral to a certifying agency. The Department of
4 Housing and Community Development shall develop regulations
5 governing the issuance of certificates pursuant to Section 7114.2
6 of the Government Code and shall develop forms for this purpose.

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

9 (d) (1) For purposes of this section, both of the following apply:

10 (A) All employees of all corporations that are members of the
11 same controlled group of corporations shall be treated as employed
12 by a single employer.

13 (B) The credit (if any) allowable by this section to each member
14 shall be determined by reference to its proportionate share of the
15 qualified wages giving rise to the credit.

16 (2) For purposes of this subdivision, “controlled group of
17 corporations” has the meaning given to that term by Section
18 1563(a) of the Internal Revenue Code, except that both of the
19 following apply:

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

23 (B) The determination shall be made without regard to Section
24 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
25 Code.

26 (3) If an employer acquires the major portion of a trade or
27 business of another employer (hereinafter in this paragraph referred
28 to as the “predecessor”) or the major portion of a separate unit of
29 a trade or business of a predecessor, then, for purposes of applying
30 this section (other than subdivision (e)) for any calendar year
31 ending after that acquisition, the employment relationship between
32 an employee and an employer shall not be treated as terminated if
33 the employee continues to be employed in that trade or business.

34 (e) (1) (A) If the employment of any employee, other than
35 seasonal employment, with respect to whom qualified wages are
36 taken into account under subdivision (a) is terminated by the
37 taxpayer at any time during the first 270 days of that employment
38 (whether or not consecutive) or before the close of the 270th
39 calendar day after the day in which that employee completes 90
40 days of employment with the taxpayer, the tax imposed by this

1 part for the taxable year in which that employment is terminated
2 shall be increased by an amount equal to the credit allowed under
3 subdivision (a) for that taxable year and all prior income years
4 attributable to qualified wages paid or incurred with respect to that
5 employee.

6 (B) If the seasonal employment of any qualified disadvantaged
7 individual, with respect to whom qualified wages are taken into
8 account under subdivision (a) is not continued by the qualified
9 taxpayer for a period of 270 days of employment during the
10 60-month period beginning with the day the qualified
11 disadvantaged individual commences seasonal employment with
12 the qualified taxpayer, the tax imposed by this part, for the taxable
13 year that includes the 60th month following the month in which
14 the qualified disadvantaged individual commences seasonal
15 employment with the qualified taxpayer, shall be increased by an
16 amount equal to the credit allowed under subdivision (a) for that
17 taxable year and all prior taxable years attributable to qualified
18 wages paid or incurred with respect to that qualified disadvantaged
19 individual.

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

22 (i) A termination of employment of an employee who voluntarily
23 leaves the employment of the taxpayer.

24 (ii) A termination of employment of an individual who, before
25 the close of the period referred to in paragraph (1), becomes
26 disabled to perform the services of that employment, unless that
27 disability is removed before the close of that period and the
28 taxpayer fails to offer reemployment to that individual.

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

33 (iv) A termination of employment of an individual due to a
34 substantial reduction in the trade or business operations of the
35 taxpayer.

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

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

3 (i) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual who voluntarily fails to return to the
5 seasonal employment of the qualified taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 disadvantaged individual who, before the close of the period
8 referred to in subparagraph (B) of paragraph (1), becomes disabled
9 and unable to perform the services of that seasonal employment,
10 unless that disability is removed before the close of that period
11 and the qualified taxpayer fails to offer seasonal employment to
12 that qualified disadvantaged individual.

13 (iii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if it is determined that the failure to
15 continue the seasonal employment was due to the misconduct (as
16 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
17 the California Code of Regulations) of that individual.

18 (iv) A failure to continue seasonal employment of a qualified
19 disadvantaged individual due to a substantial reduction in the
20 regular seasonal trade or business operations of the qualified
21 taxpayer.

22 (v) A failure to continue the seasonal employment of a qualified
23 disadvantaged individual, if that individual is replaced by other
24 qualified disadvantaged individuals so as to create a net increase
25 in both the number of seasonal employees and the hours of seasonal
26 employment.

27 (C) For purposes of paragraph (1), the employment relationship
28 between the taxpayer and an employee shall not be treated as
29 terminated by either of the following:

30 (i) A transaction to which Section 381(a) of the Internal Revenue
31 Code applies, if the employee continues to be employed by the
32 acquiring corporation.

33 (ii) A mere change in the form of conducting the trade or
34 business of the taxpayer, if the employee continues to be employed
35 in that trade or business and the taxpayer retains a substantial
36 interest in that trade or business.

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

1 (4) At the close of the second taxable year, if the taxpayer has
2 not increased the number of its employees as determined by
3 paragraph (5) of subdivision (b), then the amount of the credit
4 previously claimed shall be added to the taxpayer's tax for the
5 taxpayer's second taxable year.

6 (f) In the case of an organization to which Section 593 of the
7 Internal Revenue Code applies, and a regulated investment
8 company or a real estate investment trust subject to taxation under
9 this part, rules similar to the rules provided in Section 46(e) and
10 Section 46(h) of the Internal Revenue Code shall apply.

11 (g) The credit shall be reduced by the credit allowed under
12 Section 23621. The credit shall also be reduced by the federal
13 credit allowed under Section 51 of the Internal Revenue Code.

14 In addition, any deduction otherwise allowed under this part for
15 the wages or salaries paid or incurred by the taxpayer upon which
16 the credit is based shall be reduced by the amount of the credit,
17 prior to any reduction required by subdivision (h) or (i).

18 (h) In the case where the credit otherwise allowed under this
19 section exceeds the "tax" for the taxable year, that portion of the
20 credit that exceeds the "tax" may be carried over and added to the
21 credit, if any, in succeeding years, until the credit is exhausted.
22 The credit shall be applied first to the earliest taxable years
23 possible.

24 (i) (1) The amount of credit otherwise allowed under this section
25 and Section 23645, including any prior year carryovers, that may
26 reduce the "tax" for the taxable year shall not exceed the amount
27 of tax that would be imposed on the taxpayer's business income
28 attributed to a LAMBRA determined as if that attributed income
29 represented all of the income of the taxpayer subject to tax under
30 this part.

31 (2) Attributable income shall be that portion of the taxpayer's
32 California source business income that is apportioned to the
33 LAMBRA. For that purpose, the taxpayer's business income that
34 is attributable to sources in this state first shall be determined in
35 accordance with Chapter 17 (commencing with Section 25101).
36 That business income shall be further apportioned to the LAMBRA
37 in accordance with Article 2 (commencing with Section 25120)
38 of Chapter 17, modified for purposes of this section in accordance
39 with paragraph (3).

1 (3) Income shall be apportioned to a LAMBRA by multiplying
2 the total California business income of the taxpayer by a fraction,
3 the numerator of which is the property factor plus the payroll factor,
4 and the denominator of which is two. For purposes of this
5 paragraph:

6 (A) The property factor is a fraction, the numerator of which is
7 the average value of the taxpayer's real and tangible personal
8 property owned or rented and used in the LAMBRA during the
9 taxable year, and the denominator of which is the average value
10 of all the taxpayer's real and tangible personal property owned or
11 rented and used in this state during the taxable year.

12 (B) The payroll factor is a fraction, the numerator of which is
13 the total amount paid by the taxpayer in the LAMBRA during the
14 taxable year for compensation, and the denominator of which is
15 the total compensation paid by the taxpayer in this state during the
16 taxable year.

17 (4) The portion of any credit remaining, if any, after application
18 of this subdivision, shall be carried over to succeeding taxable
19 years, as if it were an amount exceeding the "tax" for the taxable
20 year, as provided in subdivision (h).

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

25 (k) *If a taxpayer relocated to a LAMBRA from within the state*
26 *during any taxable year beginning on or after January 1, 2011,*
27 *the taxpayer shall be allowed a credit for the taxable year only*
28 *for that number of employees that exceeds the number of employees*
29 *at the previous location. The number of employees at the previous*
30 *location and the type of jobs undertaken shall be established by*
31 *the Employment Development Department. Exceptions to this*
32 *subdivision shall be limited to the following:*

33 (1) *Employees, who undertake core work activities or activities*
34 *that are the primary job duties of the employee that are*
35 *significantly different from those activities at the previous location,*
36 *as determined by the Employment Development Department.*

37 (2) *Employees of taxpayers that receive a bona fide offer to*
38 *relocate to another state.*

39 (3) *Employees, who relocate as a result of a natural disaster,*
40 *civic unrest, or eminent domain proceeding.*

1 *SEC. 9. This act provides for a tax levy within the meaning of*
 2 *Article IV of the Constitution and shall go into immediate effect.*

3 ~~SECTION 1. Section 17053.82 is added to the Revenue and~~
 4 ~~Taxation Code, to read:~~

5 ~~17053.82. (a) For each taxable year beginning on or after~~
 6 ~~January 1, 2012, and before January 1, 2019, there shall be allowed~~
 7 ~~as a credit against the “net tax,” as defined in Section 17039, an~~
 8 ~~amount equal to any wages, salary, or other compensation paid or~~
 9 ~~incurred by a taxpayer during the taxable year to an employee of~~
 10 ~~the taxpayer for each day, not to exceed two, that the employee~~
 11 ~~performs volunteer services at a qualified school.~~

12 ~~(b) For purposes of this section, “qualified school” means any~~
 13 ~~school in this state that provides instruction for any grade from~~
 14 ~~kindergarten through 12th and enrolls a child of the employee with~~
 15 ~~respect to whom a credit is claimed under this section.~~

16 ~~(c) In the case where the credit allowed by this section exceeds~~
 17 ~~the “net tax,” the excess may be carried over to reduce the “net~~
 18 ~~tax” in the following year, and the succeeding seven years if~~
 19 ~~necessary, until the credit is exhausted.~~

20 ~~(d) This section shall remain in effect only until January 1, 2019,~~
 21 ~~and as of December 1, 2019, is repealed. However, any unused~~
 22 ~~credit may continue to be carried forward, as provided in~~
 23 ~~subdivision (c), until the credit is exhausted.~~

24 ~~SEC. 2. Section 23628 is added to the Revenue and Taxation~~
 25 ~~Code, to read:~~

26 ~~23628. (a) For each taxable year beginning on or after January~~
 27 ~~1, 2012, and before January 1, 2019, there shall be allowed as a~~
 28 ~~credit against the “tax,” as defined in Section 23036, an amount~~
 29 ~~equal to any wages, salary, or other compensation paid or incurred~~
 30 ~~by a taxpayer during the taxable year to an employee of the~~
 31 ~~taxpayer for each day, not to exceed two, that the employee~~
 32 ~~performs volunteer services at a qualified school.~~

33 ~~(b) For purposes of this section, “qualified school” means any~~
 34 ~~school in this state that provides instruction for any grade from~~
 35 ~~kindergarten through 12th and enrolls a child of the employee with~~
 36 ~~respect to whom a credit is claimed under this section.~~

37 ~~(c) In the case where the credit allowed by this section exceeds~~
 38 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
 39 ~~the following year, and the succeeding seven years if necessary,~~
 40 ~~until the credit is exhausted.~~

1 ~~(d) This section shall remain in effect only until January 1, 2019,~~
2 ~~and as of December 1, 2019, is repealed. However, any unused~~
3 ~~credit may continue to be carried forward, as provided in~~
4 ~~subdivision (e), until the credit is exhausted.~~

5 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
6 ~~Article IV of the Constitution and shall go into immediate effect.~~

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