AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 24, 2013

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 93

Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Skinner, Stone, and Ting)

January 10, 2013

An act to amend Section 13073.5 of, to add Sections 7090, 7099.5, and 7119 to, and to repeal Chapter 12.8 (commencing with Section 7070), Chapter 12.93 (commencing with Section 7097), and Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of, the Government Code, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6 of, to add Section 18410.2 to, to add and repeal Sections 6377.1, 17053.73, 17059.2, 23626, and 23689 of, and to repeal, amend, and repeal Sections 17053.80 and 23623 of, the Revenue and Taxation Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 93, as amended, Committee on Budget. Economic development: taxation: credits, deductions, *exemptions,* and net operating losses.

(1) Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, manufacturing enhancement areas, targeted tax areas, and local agency military base recovery areas, or LAMBRAs. Existing law allows various incentives to businesses operating in these areas.

This bill would repeal the provisions authorizing those designations on January 1, 2014.

(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including hiring credits and sales and use tax credits for taxpayers within the specified economic development areas, and a hiring credit for taxpayers, other than those allowed a credit with respect to operating in the specified economic development areas. Those laws, for taxpayers engaged in business within specified economic development areas, authorize specified net operating loss carryovers and expense deductions in computing income subject to taxes. Those laws also authorize an interest deduction for interest received in payment of indebtedness of a person engaged in business in an enterprise zone.

This bill generally would make these provisions inoperative for taxable years beginning on or after January 1, 2014, and repeal these provisions on either December 1, 2014, or December 1, 2019, as provided. This bill would limit the application of sales and use tax credits to sales and use tax paid for purchases before January 1, 2014, and limit the carryover of those credits to the ~~5~~ *10* succeeding years, limit the application of the hiring credits to employees hired within a specified period before January 1, 2014, and *limit the carryovers for those credits to the 10 succeeding years. The bill would* limit the interest deduction to interest received before January 1, 2014.

This bill would also allow a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee as established by this bill, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. The bill would limit the aggregate amount of credits allowed to taxpayers to a specified sum per fiscal year.

This bill would, under both laws for taxable years beginning on or after ~~July~~ *January* 1, 2014, and before January 1, ~~2019,~~ *2021,* allow a credit against tax for portions of the wages paid by a taxpayer engaged in a trade or business within a designated census tract, as defined, or a former enterprise zone to certain full-time employees who provide services for that taxpayer in connection with that trade or business. The bill would require the Population Research Unit in the Department of Finance to identify designated census tracts in accordance with certain criteria.

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

The bill would exempt from those taxes, on and after ~~January~~ *July* 1, 2014, and before January 1, 2019, *or before July 1, 2021,* the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for use primarily in manufacturing, processing, refining, fabricating, or recycling of property, as specified; qualified tangible personal property purchased for use by a contractor for specified purposes, as provided; and qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, the Fiscal Recovery Fund, or the Local Revenue Fund 2011.

(4) This bill would appropriate up to $600,000 for allocation to a committee and departments, as specified, by the Director of Finance in furtherance of the objectives of this bill, as provided.

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

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

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

(a) California's economic development policy should be to create good jobs with middle-class wages and benefits.

(b) State assistance regarding employment should be focused upon those individuals facing barriers to employment, and state tax policy should encourage businesses to invest in California.

(c) The state's largest economic development program, the enterprise zone program, is in need of comprehensive reform. The Public Policy Institute of California released a study in 2009 finding that enterprise zones have "no statistically significant effect on either employment levels or employment growth rates." Furthermore, the Legislative Analyst's Office has issued several reports concluding that enterprise zones do not create jobs, finding that the enterprise zone program is "expensive and not strongly effective."

(d) It is the intent of the Legislature to reform state tax incentives for the hiring of individuals in enterprise zones to refocus those tax incentives on creating new, good jobs within those zones and within other areas of the state suffering from high rates of unemployment and poverty.

(e) It is the intent of the Legislature to exempt manufacturing equipment from state sales and use taxes in order to make California more competitive in attracting new businesses to the state, and to bring California in line with the 48 other states that exempt manufacturing equipment from sales and use tax.

(f) It is the intent of the Legislature in appropriating funds pursuant to this act to provide the California Competes Tax Credit Committee, and the departments that are required to administer this act, with an important tool to attract and retain high-value

employers. The program created by this act will allow businesses to publicly apply for tax credits allowed on the basis of job creation and retention standards. This program is intended to be a model of transparency and accountability for the state's job creation efforts in that performance measurements will ensure that the effective use of taxpayer dollars is maximized.

SEC. 2. Section 7090 is added to the Government Code, to read:

7090. Chapter 12.8 (commencing with Section 7070) is repealed on January 1, 2014.

SEC. 3. Section 7099.5 is added to the Government Code, to read:

7099.5. Chapter 12.93 (commencing with Section 7097) is repealed on January 1, 2014.

SEC. 4. Section 7119 is added to the Government Code, to read:

7119. Chapter 12.97 (commencing with Section 7105) is repealed on January 1, 2014.

SEC. 5. Section 13073.5 of the Government Code is amended to read:

13073.5. The Legislature finds and declares that: (1) population size and distribution patterns in California exert a major influence on the physical, social, and economic structure of the state and on the quality of the environment generally; (2) sound and current data and methods to estimate population trends are necessary to enable state, regional, and local agencies to plan and function properly; and (3) there is a critical need for a proper study of the implications of present and future population trends in order that state, regional, and local agencies might develop or reexamine policies and actions based thereon.

The Population Research Unit shall:

(a) Develop basic demographic data and statistical compilations, which may include a current population survey and a mid-decade census.

(b) Design and test methods of research and data collection.

(c) Conduct local population estimates as required by law.

(d) Validate all official census data and population statistics.

(e) Analyze and prepare projections of enrollments in public schools, colleges, and universities.

(f) Analyze governmental records to establish characteristics of migration and distribution.

(g) Publish annual estimates of the population of the state and its composition.

(h) Prepare short- and long-range projections of population and its composition.

(i) Provide advisory services to state agencies and other levels of government.

(j) Evaluate and recommend data requirements for determining population and population growth.

(k) Analyze the demographic features of the causes and consequences of patterns of natural increase or decrease, migration, and population concentration within the state.

(*l*) Assess the need for population data required for determining the allocation of federal, state, and other subvention revenues.

(m) Request and obtain from any department, division, commission, or other agency of the state all assistance and information to enable the unit to effectively carry out the provisions of this section.

(n) Cooperate with the Office of Planning and Research with respect to functions involving mutual areas of concern relating to demography and state planning.

(o) Enter into agreements to carry out the purposes of this section, including the application for and acceptance of federal funds or private foundation grants for demographic studies.

(p) Act as primary state government liaison with the Census Bureau, United States Department of Commerce, in the acquisition and distribution of census data and related documentation to state agencies.

(q) Administer, with other agencies, a State Census Data Center which will be responsible for acquiring decennial and other census data from the Bureau of the Census, and for providing necessary information to the Legislature and to the executive branch and for seeking to ensure the availability of census information to local governments. The unit and the Office of Planning and Research shall be responsible for designating subcenters of the State Census Data Center as needed. The unit will provide materials to subcenters of the State Census Data Center, will coordinate the efforts of the subcenters to avoid duplication and may consult in

the design of standard reports to be offered by the center and its subcenters.

(r) Coordinate with the Office of Planning and Research Environmental Data Center for the purposes of ensuring consistency and compatibility of data products, improving public access to data, ensuring the consistent interpretation of data, and avoiding duplication of functions.

(s) (1) Determine those census tracts that are to be designated census tracts based on data from the five-year American Community Survey (ACS). The census tracts that are within the highest quartile for both civilian unemployment and poverty statistics, as determined in paragraphs (2) and (3), shall be determined to be designated census tracts as described in paragraph (7) of subdivision (b) of Section 17053.73, and paragraph (7) of subdivision (b) of Section 23626 of the Revenue and Taxation Code.

(2) To determine the census tracts that are within the highest quartile of census tracts with the highest civilian unemployment, the census tracts shall be sorted by the respective civilian unemployment rate of each in ascending order, or from the lowest (0 percent) to the highest (100 percent) according to the following:

(A) Census tracts without a civilian labor force shall be excluded.

(B) After ordering the census tracts by the civilian unemployment rate of each, the census tracts shall be divided into four equal groups or quartiles as follows:

(i) The first quartile shall represent the lowest fourth of the census tracts (1 percent to less than 26 percent).

(ii) The second quartile shall represent the second fourth (26 percent to less than 51 percent).

(iii) The third quartile shall represent the third fourth (51 percent to less than 76 percent).

(iv) The fourth quartile shall represent the fourth fourth (76 percent to 100 percent, inclusive).

(C) The last or highest quartile shall represent the top 25 percent of the census tracts with the highest civilian unemployment rates.

(3) To determine the census tracts that are within the quartile of census tracts with the highest poverty, the census tracts shall be sorted by the respective percentage of population below poverty

of each in ascending order, or from the lowest (0 percent) to the highest (100 percent) according to the following:

(A) Consistent with poverty statistics in the ACS, which adhere to the standards specified by the federal Office of Management and Budget in Statistical Policy Directive 14, the poverty thresholds as specified by the United States Census Bureau shall be used to determine those individuals below poverty.

(B) To determine those individuals below poverty, different thresholds, as specified by the United States Census Bureau, shall be applied to families, people living alone, or people living with nonrelatives (unrelated individuals).

(C) If a family's total income is less than the dollar value of the appropriate threshold, then that family and every individual in it shall be considered to be below poverty.

(D) If an unrelated individual's total income is less than the appropriate threshold, then that individual shall be considered to be below poverty.

(E) Poverty status shall be determined for all people except institutionalized people, people in military group quarters, people in college dormitories, and unrelated individuals under 15 years of age.

(F) Census tracts that do not have a population for whom poverty status is determined shall be excluded.

(G) After ordering the census tracts by the respective percent below poverty of each, the census tracts shall be divided into four equal quartiles as follows:

(i) The first quartile shall represent the lowest fourth of the census tracts (1 percent to less than 26 percent).

(ii) The second quartile shall represent the second fourth (26 percent to less than 51 percent).

(iii) The third quartile shall represent the third fourth (51 percent to less than 76 percent).

(iv) The fourth quartile shall represent the fourth fourth (76 percent to 100 percent, inclusive).

(H) The last or highest quartile shall represent the top 25 percent of the census tracts with the highest percentage of population below poverty.

(4) To determine the census tracts that are within the lowest quartile of census tracts with the lowest civilian unemployment and poverty, the census tracts shall be sorted by the respective

civilian unemployment and poverty rates of each in ascending order, or from the lowest (0 percent) to the highest (100 percent) according to the following:

(A) Census tracts without a civilian labor force are to be excluded.

(B) After ordering the census tracts by the civilian unemployment and poverty rates of each, the census tracts shall be divided into four equal groups or quartiles as follows:

(i) The first quartile shall represent the lowest fourth of the census tracts (1 percent to less than 26 percent).

(ii) The second quartile shall represent the second fourth (26 percent to less than 51 percent).

(iii) The third quartile shall represent the third fourth (51 percent to less than 76 percent).

(iv) The fourth quartile shall represent the fourth fourth (76 percent to 100 percent, inclusive).

(C) The first or lowest quartile shall represent the bottom 25 percent of the census tracts with the lowest civilian unemployment and poverty rates.

SEC. 6. Section 6377.1 is added to the Revenue and Taxation Code, to read:

6377.1. (a) *(1)* Except as provided in subdivision (e), on or after July 1, 2014, and before January 1, 2019, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

~~(1)~~

(A) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

~~(2)~~

(B) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

~~(3)~~

(C) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in ~~paragraph (1) or (2)~~ *subparagraph (A) or (B).*

~~(4)~~

(D) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with those processes.

(2) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2021, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of qualified tangible personal property purchased for use within a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73 and paragraph (7) of subdivision (b) of Section 23626, or a former enterprise zone, as defined in paragraph (8) of subdivision (b) of Section 17053.73 and paragraph (8) of subdivision (b) of Section 23626, by any of the following:

(A) A qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(B) A qualified person to be used primarily in research and development.

(C) A qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in subparagraph (A) or (B).

(D) A contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with those processes.

(b) For purposes of this section:

(1) "Fabricating" means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(2) "Manufacturing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(3) "Primarily" means 50 percent or more of the time.

(4) "Process" means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(5) "Processing" means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(6) (A) "Qualified person" means a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) Notwithstanding subparagraph (A), "qualified person" shall not include either of the following:

(i) An apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128.

(ii) A trade or business conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(7) (A) "Qualified tangible personal property" includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) Special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) "Qualified tangible personal property" shall not include any of the following:

(i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(8) "Refining" means the process of converting a natural resource to an intermediate or finished product.

(9) "Research and development" means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(10) "Useful life" for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. "Useful life" for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the board upon request.

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) The exemption provided by this section shall not apply to either of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars ($200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars ($200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar ($200,000,000) limitation ~~of~~ *described in* subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is *so purchased*, removed, converted, or used, and the ~~sales price~~ *cost* of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section shall apply to leases of qualified tangible personal property classified as "continuing sales" and "continuing purchases" in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) No later than each March 1 next following a calendar year for which this section provides an exemption, the board shall provide to the Joint Legislative Budget Committee a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the department's estimate for that same calendar year. If that total dollar amount taken is less than the

estimate for that calendar year, the report shall identify options for increasing exemptions taken so as to meet estimated amounts.

(h) This section is repealed on January 1, 2019.

SEC. 7. Section 17053.33 of the Revenue and Taxation Code is amended to read:

17053.33. (a) For each taxable year beginning on or after January 1, 1998, and before January 1, 2014, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the qualified taxpayer in connection with the qualified taxpayer's purchase of qualified property before January 1, 2014.

(b) For purposes of this section:

(1) "Qualified property" means property that meets all of the following requirements:

(A) Is any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, such as computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, such as cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any qualified taxpayer for purposes of claiming this credit shall not exceed one million dollars ($1,000,000).

(C) The qualified property is used by the qualified taxpayer exclusively in a targeted tax area.

(D) The qualified property is purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

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

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

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

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23633 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subparagraph, the term "pass-through entity" means any partnership or S corporation.

(3) "Targeted tax area" means the area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(c) If the qualified taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(d) If the qualified taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(e) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue

Code with respect to sales or use tax paid or incurred in connection with the qualified taxpayer's purchase of qualified property.

(g) (1) The amount of the credit otherwise allowed under this section and Section 17053.34, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (e). However, the portion of any credit remaining

for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (e).

(5) In the event that a credit carryover is allowable under subdivision (e) for any taxable year after the targeted tax area designation has expired, has been revoked, is no longer binding, or has become inoperative, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(i) This section is repealed on December 1, 2014.

SEC. 8. Section 17053.34 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the

qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

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

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

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture

industry, aggravated by continual advancements in technology and mechanization.

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

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

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

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) CalFresh benefits.

(dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from

prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years, if necessary,

until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

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

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 9. Section 17053.45 of the Revenue and Taxation Code is amended to read:

17053.45. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2014, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property before January 1, 2014, to the extent that the qualified property does not exceed a value of one million dollars ($1,000,000).

(b) For purposes of this section:

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

(2) "Taxpayer" means a taxpayer that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

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

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

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

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

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

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

(3) "Qualified property" means property that is each of the following:

(A) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(B) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(C) Any of the following:

(i) High technology equipment, including, but not limited to, computers and electronic processing equipment.

(ii) Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts, and tugs.

(iii) Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels, and tires.

(iv) Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall be allowed only for qualified property manufactured in California unless qualified property of a comparable quality and price is not available for timely purchase and delivery from a California manufacturer.

(d) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 17053.46, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributable income represented all the income of the taxpayer subject to tax under this part.

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

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

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value

of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d).

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the LAMBRA, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

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

(h) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(i) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(j) This section is repealed on December 1, 2014.

SEC. 10. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring

a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) CalFresh benefits.

(IV) State and local general assistance.

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

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

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

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

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

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

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

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

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

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

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

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

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

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

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

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

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

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year

ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

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

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

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

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

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

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as

defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

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

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

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

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

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

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

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

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

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to

be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

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

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

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

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

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

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

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

(h) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that

is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

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

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 11. Section 17053.47 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer

does not constitute commencement of employment for purposes of this section.

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

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

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

(4) "Manufacturing enhancement area expiration date" means the date the manufacturing enhancement area designation expires, is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1,

2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g).

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

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

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

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

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with the provisions of this section, as amended by the act adding this subdivision.

SEC. 12. Section 17053.70 of the Revenue and Taxation Code is amended to read:

17053.70. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year an

amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property before January 1, 2014.

(b) For purposes of this section:

(1) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone.

(2) "Qualified property" means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data processing and communications equipment, including, but not limited, to computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed one million dollars ($1,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code as it read on the effective date of the act amending this section.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer that elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer's purchase of qualified property.

(f) (1) The amount of the credit otherwise allowed under this section and Section 17053.74, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

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

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

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

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during

the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (d).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(h) This section is repealed on December 1, 2014.

SEC. 13. Section 17053.73 is added to the Revenue and Taxation Code, to read:

17053.73. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, ~~2019,~~ *2021,* there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or former enterprise zone, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the "net tax," as defined in Section 17039, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for that taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or former enterprise zone, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or former enterprise zone with comparable compensation.

(B) For purposes of this paragraph, "relocates to a designated census tract or former enterprise zone" means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or former enterprise zones within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or former enterprise zone.

(C) This paragraph shall not apply to a small business.

(4) The credit allowed by this section may be claimed only on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The "tentative credit amount" for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The "applicable percentage" for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The "applicable credit percentage" means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) "Base year" means the 2013 taxable year, except in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 1, 2015, the base year means the taxable year immediately preceding the taxable year in which a qualified full-time employee was first hired by the qualified taxpayer.

(5) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the qualified taxpayer by the employee, not to exceed 2,000 hours per employee, divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) "Designated census tract" means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) "Former enterprise zone" means an enterprise zone designated as of December 31, 2011, and any expansion of an enterprise zone prior to December 31, 2012, under former Chapter 12.8 (commencing with former Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest quartile of census tracts with the lowest civilian unemployment and poverty.

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

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or former enterprise zone.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred

to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vi) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual that completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran that had not been employed since separation from service in the Armed Forces of the United States.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Was an ex-offender, within the meaning of Section 17053.74.

(B) An individual may be considered a qualified full-time employee only for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a person or entity engaged in a trade or business within a designated census tract or former enterprise zone that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23626 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with

applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayers" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 Edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(D) Subparagraph (C) shall not apply to a taxpayer that is a "small business."

(12) "Qualified wages" means those wages that meet all of the following requirements:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of minimum wage.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (n), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of

Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer a designated census tract.

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

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars ($2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

~~(iii) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the dollar amount specified in subparagraph (A) shall apply to the aggregate gross receipts of all taxpayers that are required to be or authorized to be included in a combined report.~~

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

(1) (A) The net increase in full-time employees shall be determined on an annual full-time equivalent basis by subtracting

from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

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

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

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

(d) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276.20, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development Department's new hire reporting requirements as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hired in a previous taxable year, on or before, the 15th day of the third month of the taxable year. The

certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a searchable database on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, ~~2019,~~ *2021*, the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section ~~23623~~ *23626*.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date the Department of Finance redesignates the designated census tracts.

(h) For purposes of this section:

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

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

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

(4) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (h) of Section 23626, shall apply with respect to determining employment.

(5) If an employer acquires the major portion of a trade or business of another employer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (i), for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

(B) A termination of employment of a qualified full-time employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services

of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

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

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

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

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

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

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

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

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

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

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

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

(m) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the ~~2018–19~~ *2020–21* fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(n) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, ~~2019,~~ *2021*, but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or former enterprise zone in a taxable year beginning before January 1, ~~2019~~ *2021*.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or a former enterprise zone ceases to be a former enterprise zone, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or a former enterprise zone ceases to

be a former enterprise zone, as defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding.

SEC. 14. Section 17053.74 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

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

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

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

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a

state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

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

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) CalFresh benefits.

(dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

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

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

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

(*l*) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the enterprise zone within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January

1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 15. Section 17053.75 of the Revenue and Taxation Code is amended to read:

17053.75. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount equal to five percent of the qualified wages received by the taxpayer during the taxable year.

(b) For purposes of this section:

(1) "Qualified employee" means a taxpayer who meets both of the following:

(A) Is described in clauses (i) and (ii) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 17053.74.

(B) Is not an employee of the federal government or of this state or of any political subdivision of this state.

(2) (A) "Qualified wages" means "wages," as defined in subsection (b) of Section 3306 of the Internal Revenue Code, attributable to services performed for an employer with respect to whom the taxpayer is a qualified employee in an amount that does not exceed one and one-half times the dollar limitation specified in that subsection.

(B) "Qualified wages" does not include any compensation received from the federal government or this state or any political subdivision of this state.

(C) "Qualified wages" does not include any wages received on or after the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) "Enterprise zone" means any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(c) For each dollar of income received by the taxpayer in excess of qualified wages, as defined in this section, the credit shall be reduced by nine cents ($0.09).

(d) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's income attributable to employment within the enterprise zone as if that income represented all of the income of the taxpayer subject to tax under this part.

(e) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 16. Section 17053.80 of the Revenue and Taxation Code, as added by Section 3 of Chapter 10 of the Third Extraordinary Session of the Statutes of 2009, is repealed.

SEC. 17. Section 17053.80 of the Revenue and Taxation Code, as added by Section 3 of Chapter 17 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

17053.80. (a) For each taxable year beginning on or after January 1, 2009, there shall be allowed as a credit against the "net tax," as defined in Section 17039, three thousand dollars ($3,000) for each net increase in qualified full-time employees, as specified in subdivision (c), hired during the taxable year by a qualified employer.

(b) For purposes of this section:

(1) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(2) "Qualified full-time employee" means:

(A) A qualified employee who was paid qualified wages by the qualified employer for services of not less than an average of 35 hours per week.

(B) A qualified employee who was a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified employer.

(3) A "qualified employee" shall not include any of the following:

(A) An employee certified as a qualified employee in an enterprise zone designated in accordance with Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(B) An employee certified as a qualified disadvantaged individual in a manufacturing enhancement area designated in accordance with Section 7073.8 of the Government Code.

(C) An employee certified as a qualified employee in a targeted tax area designated in accordance with Section 7097 of the Government Code.

(D) An employee certified as a qualified disadvantaged individual or a qualified displaced employee in a local agency

military base recovery area (LAMBRA) designated in accordance with Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code.

(E) An employee whose wages are included in calculating any other credit allowed under this part.

(4) "Qualified employer" means a taxpayer that, as of the last day of the preceding taxable year, employed a total of 20 or fewer employees.

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

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the taxpayer by the employee divided by 52.

(c) The net increase in qualified full-time employees of a qualified employer shall be determined as provided by this subdivision:

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

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

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

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

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

(e) Any deduction otherwise allowed under this part for qualified wages shall not be reduced by the amount of the credit allowed under this section.

(f) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276, without application of paragraph (7) of that subdivision, shall apply.

(g) (1) (A) Credit under this section and Section 23623 shall be allowed only for credits claimed on timely filed original returns received by the Franchise Tax Board on or before the cutoff date established by the Franchise Tax Board.

(B) For purposes of this paragraph, the cutoff date shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely filed original returns claiming credits under this section and Section 23623 that cumulatively total four hundred million dollars ($400,000,000) for all taxable years.

(2) The date a return is received shall be determined by the Franchise Tax Board.

(3) (A) The determinations of the Franchise Tax Board with respect to the cutoff date, the date a return is received, and whether a return has been timely filed for purposes of this subdivision may not be reviewed in any administrative or judicial proceeding.

(B) Any disallowance of a credit claimed due to a determination under this subdivision, including the application of the limitation specified in paragraph (1), shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from such disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

(4) The Franchise Tax Board shall periodically provide notice on its Web site with respect to the amount of credit under this section and Section 23623 claimed on timely filed original returns received by the Franchise Tax Board.

(h) (1) The Franchise Tax Board may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the limitation

on total credits allowable under this section and Section 23623 and guidelines necessary to avoid the application of paragraph (2) of subdivision (f) through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

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

(i) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 18. Section 17059.2 is added to the Revenue and Taxation Code, to read:

17059.2. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The amount of credit allocated to a taxpayer for a taxable year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

(A) The number of jobs the taxpayer will create or retain in this state.

(B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.

(C) The amount of investment in this state by the taxpayer.

(D) The extent of unemployment *or poverty* in the area *according to the United States Census* in which the taxpayer's project or business is proposed or located.

(E) The incentives available to the taxpayer in this state, including incentives from the state, local government, and other entities.

(F) The incentives available to the taxpayer in other states.

(G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.

(H) The overall economic impact in this state of the taxpayer's project or business.

(I) The strategic importance of the taxpayer's project or business to the state, region, or locality.

(J) The opportunity for future growth and expansion in this state by the taxpayer's business.

(K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(3) The written agreement entered into pursuant to paragraph (2) shall include:

(A) Terms and conditions that include a minimum compensation level and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) "Committee" means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) "GO-Biz" means the Governor's Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

(2) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(6) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a "small business," as defined in Section 17053.73, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

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

(B) Provide information to GO-Biz with respect to whether a taxpayer is a "small business," as defined in Section 17053.73.

(e) In the case where the credit allowed under this section exceeds the "net tax," as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee's recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 23689 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraph (D):

(A) Thirty million dollars ($30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars ($150,000,000) for the 2014–15 fiscal year, and two hundred million dollars ($200,000,000) for each fiscal year from 2015–16 to 2018–19, inclusive.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, 23626, and 23689 to no more than seven hundred fifty million dollars ($750,000,000) for either the current fiscal year or for any of the three succeeding fiscal years.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriation, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars ($0).

(2) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 23689 shall be reserved for small business, as defined in Section 17053.73 or 23626.

(3) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that may be allocated pursuant to this section shall be allocated to any one taxpayer.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an

emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

SEC. 19. Section 17235 of the Revenue and Taxation Code is amended to read:

17235. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer before January 1, 2014, in payment on indebtedness of a person or entity engaged in the conduct of a trade or business located in an enterprise zone.

(b) A deduction shall not be allowed under this section unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business is located solely within an enterprise zone.

(2) The indebtedness is incurred solely in connection with activity within the enterprise zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(d) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 20. Section 17267.2 of the Revenue and Taxation Code is amended to read:

17267.2. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 17267.2 property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 17267.2 property in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 17267.2 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17267.2 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the

Internal Revenue Code. However, in applying Section 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants.

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply at the partnership level and at the partner level.

(e) For purposes of this section, "taxpayer" means a person or entity who conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.2 property is placed in service.

(g) The aggregate cost of all Section 17267.2 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

The applicable

	amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(h) Any amounts deducted under subdivision (a) with respect to property subject to this section that ceases to be used in the taxpayer's trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(i) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 21. Section 17267.6 of the Revenue and Taxation Code is amended to read:

17267.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat 40 percent of the cost of any Section 17267.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 17267.6 property in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 17267.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17267.6 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the qualified taxpayer for exclusive use in a trade or business conducted within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code. However, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants.

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the qualified taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply at the partnership level and at the partner level.

(e) (1) For purposes of this section, "qualified taxpayer" means a person or entity that meets both of the following:

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

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

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 24356.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part of Part 11 (commencing with Section 23001). For purposes of this subparagraph, the term "pass-through entity" means any partnership or S corporation.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the qualified taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.6 property is placed in service.

(g) The aggregate cost of all Section 17267.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(h) Any amounts deducted under subdivision (a) with respect to Section 17267.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is

placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(i) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 22. Section 17268 of the Revenue and Taxation Code is amended to read:

17268. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any Section 17268 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 17268 property in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 17268 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17268 property" means any recovery property that is each of the following:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(C) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal

Revenue Code (but, in applying Section 267(b) and Section 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined by either of the following:

(i) In whole or in part by reference to the adjusted basis of the property in the hands of the person from whom acquired.

(ii) Under Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the dollar limitation in subdivision (f) shall apply at the partnership level and at the partner level.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(e) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(2) "Taxpayer" means a taxpayer that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

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

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

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

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

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

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

(f) The aggregate cost of all Section 17268 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within

a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (e), then the amount of the deduction previously claimed shall be added to the taxpayer's taxable income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 23. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. (a) The term "qualified taxpayer" as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

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

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

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

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) The changes made to this subdivision by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1998.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 17276.4, 17276.5, or 17276.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.4, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 24. Section 17276.5 of the Revenue and Taxation Code is amended to read:

17276.5. (a) For each taxable year beginning on or after January 1, 1995, the term "qualified taxpayer" as used in Section 17276.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable

year that ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

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

(3) "Taxpayer" means a person or entity that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. The deduction shall be allowed only if the taxpayer has a net increase in jobs in the state, and if one or more full-time employees is employed within the LAMBRA.

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

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

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

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

(4) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's business activities within a LAMBRA prior to the LAMBRA expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Loss shall be apportioned to a LAMBRA by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The LAMBRA" shall be substituted for "this state."

(5) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to a LAMBRA.

(6) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

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

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

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

(B) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing the limitation specified in paragraph (5) and allowing a net operating loss deduction.

(7) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 17276.2, 17276.4, or 17276.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) This section shall apply to taxable years beginning on or after January 1, 1998.

(f) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 25. Section 17276.6 of the Revenue and Taxation Code is amended to read:

17276.6. (a) For each taxable year beginning on or after January 1, 1998, the term "qualified taxpayer" as used in Section 17276.1 includes a person or entity that meets both of the following:

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

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level.

(b) For purposes of subdivision (a), all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the qualified taxpayer conducts a trade or business is designated as a targeted tax area shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the qualified taxpayer's business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code) prior to the targeted tax area expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The targeted tax area" shall be substituted for "this state."

(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer's business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(4) Attributable income shall be that portion of the qualified taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the qualified taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with

Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

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

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

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

(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.

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

(c) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under this section and either Section 17276.2, 17276.4, or 17276.5 as a "qualified taxpayer," with respect to a net operating loss in a taxable year,

the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, or 17276.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 17276.1.

(f) This section shall apply to taxable years beginning on or after January 1, 1998.

(g) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 26. Section 18410.2 is added to the Revenue and Taxation Code, to read:

18410.2. (a) The California Competes Tax Credit Committee is hereby established. The committee shall consist of the Treasurer, the Director of Finance, and the Director of the Governor's Office of Business and Economic Development, or their designated representatives, and one appointee each from the Senate and the Assembly.

(b) For purposes of Sections 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of the following:

(1) Approve or reject any written agreement for a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the fully executed written agreement between the taxpayer and the Governor's Office of Business and Economic Development.

(2) Approve or reject any recommendation to recapture, in whole or in part, a tax credit allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the recommendation from the Governor's Office of Business and Economic Development pursuant to the terms of the fully executed written agreement.

SEC. 27. Section 19136.8 of the Revenue and Taxation Code is amended to read:

19136.8. (a) No addition to tax shall be made under Section 19136 with respect to any underpayment of an installment to the extent that the underpayment was created or increased by the disallowance of a credit under subdivision (g) of Section 17053.80.

(b) No addition to tax shall be made under Section 19142 with respect to any underpayment of an installment to the extent that the underpayment was created or increased by the disallowance of a credit under subdivision (g) of Section 23623.

(c) The Franchise Tax Board shall adopt procedures, forms, and instructions necessary to implement this section in a reasonable manner.

(d) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 28. Section 23612.2 of the Revenue and Taxation Code is amended to read:

23612.2. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property before January 1, 2014.

(b) For purposes of this section:

(1) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone.

(2) "Qualified property" means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, including, but not limited to, computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to,

cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed twenty million dollars ($20,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

(D) The qualified property is purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code as it read on the effective date of the act amending this section.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit which exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer that elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the taxpayer's purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 23622.7, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income

attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (d).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(h) This section is repealed on December 1, 2014.

SEC. 29. Section 23622.7 of the Revenue and Taxation Code is amended to read:

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

qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

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

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

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

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) CalFresh benefits.

(dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

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

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

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

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

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

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

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

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

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101).

That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

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

(*l*) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the enterprise zone within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit

under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 30. Section 23622.8 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

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

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the manufacturing enhancement area expiration date. However, wages paid or incurred

with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period prior to the manufacturing enhancement area expiration date shall continue to qualify for the credit under this section after the manufacturing enhancement area expiration date, in accordance with all provisions of this section applied as if the manufacturing enhancement area designation were still in existence and binding.

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

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

(4) "Manufacturing enhancement area expiration date" means the date the manufacturing enhancement area designation expires, is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

(2) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer's

business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g).

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

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

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training

Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

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

(j) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 31. Section 23623 of the Revenue and Taxation Code, as added by Section 8 of Chapter 10 of the Third Extraordinary Session of the Statutes of 2009, is repealed.

SEC. 32. Section 23623 of the Revenue and Taxation Code, as added by Section 8 of Chapter 17 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

23623. (a) For each taxable year beginning on or after January 1, 2009, there shall be allowed as a credit against the "tax," as defined in Section 23036, three thousand dollars ($3,000) for each net increase in qualified full-time employees, as specified in subdivision (c), hired during the taxable year by a qualified employer.

(b) For purposes of this section:

(1) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(2) "Qualified full-time employee" means:

(A) A qualified employee who was paid qualified wages during the taxable year by the qualified employer for services of not less than an average of 35 hours per week.

(B) A qualified employee who was a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified employer.

(3) A "qualified employee" shall not include any of the following:

(A) An employee certified as a qualified employee in an enterprise zone designated in accordance with Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(B) An employee certified as a qualified disadvantaged individual in a manufacturing enhancement area designated in accordance with Section 7073.8 of the Government Code.

(C) An employee certified as a qualified employee in a targeted tax area designated in accordance with Section 7097 of the Government Code.

(D) An employee certified as a qualified disadvantaged individual or a qualified displaced employee in a local agency military base recovery area (LAMBRA) designated in accordance with Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code.

(E) An employee whose wages are included in calculating any other credit allowed under this part.

(4) "Qualified employer" means a taxpayer that, as of the last day of the preceding taxable year, employed a total of 20 or fewer employees.

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

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the taxpayer by the employee divided by 52.

(c) The net increase in qualified full-time employees of a qualified employer shall be determined as provided by this subdivision:

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

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

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

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

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

(e) Any deduction otherwise allowed under this part for qualified wages shall not be reduced by the amount of the credit allowed under this section.

(f) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276, without application of paragraph (7) of that subdivision, shall apply.

(g) (1) (A) Credit under this section and Section 17053.80 shall be allowed only for credits claimed on timely filed original returns received by the Franchise Tax Board on or before the cutoff date established by the Franchise Tax Board.

(B) For purposes of this paragraph, the cutoff date shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely filed original returns claiming credits under this section and Section 17053.80 that

cumulatively total four hundred million dollars ($400,000,000) for all taxable years.

(2) The date a return is received shall be determined by the Franchise Tax Board.

(3) (A) The determinations of the Franchise Tax Board with respect to the cutoff date, the date a return is received, and whether a return has been timely filed for purposes of this subdivision may not be reviewed in any administrative or judicial proceeding.

(B) Any disallowance of a credit claimed due to a determination under this subdivision, including the application of the limitation specified in paragraph (1), shall be treated as a mathematical error appearing on the return. Any amount of tax resulting from such disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

(4) The Franchise Tax Board shall periodically provide notice on its Web site with respect to the amount of credit under this section and Section 17053.80 claimed on timely filed original returns received by the Franchise Tax Board.

(h) (1) The Franchise Tax Board may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the limitation on total credits allowable under this section and Section 17053.80 and guidelines necessary to avoid the application of paragraph (2) of subdivision (f) through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

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

(i) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 33. Section 23626 is added to the Revenue and Taxation Code, to read:

23626. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, ~~2019,~~ *2021,* there shall be allowed to a qualified taxpayer that hires a qualified full-time employee and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated

census tract or former enterprise zone, and that receives a tentative credit reservation for that qualified full-time employee, a credit against the "tax," as defined by Section 23036, in an amount calculated under this section.

(2) The amount of the credit allowable under this section for a taxable year shall be equal to the product of the tentative credit amount for the taxable year and the applicable percentage for the taxable year.

(3) (A) If a qualified taxpayer relocates to a designated census tract or former enterprise zone, the qualified taxpayer shall be allowed a credit with respect to qualified wages for each qualified full-time employee who is employed within the new location only if the qualified taxpayer provides each employee at the previous location or locations a written offer of employment at the new location in the designated census tract or former enterprise zone with comparable compensation.

(B) For purposes of this paragraph, "relocates to a designated census tract or former enterprise zone" means an increase in the number of qualified full-time employees, employed by a qualified taxpayer, within a designated census tract or tracts or former enterprise zones within a 12-month period in which there is a decrease in the number of full-time employees, employed by the qualified taxpayer in this state, but outside of designated census tracts or former enterprise zone.

(C) This paragraph shall not apply to a small business.

(4) The credit allowed by this section may only be claimed on a timely filed original return of the qualified taxpayer and only with respect to a qualified full-time employee for whom the qualified taxpayer has received a tentative credit reservation.

(b) For purposes of this section:

(1) The "tentative credit amount" for a taxable year shall be equal to the product of the applicable credit percentage for each qualified full-time employee and the qualified wages paid by the qualified taxpayer during the taxable year to that qualified full-time employee.

(2) The "applicable percentage" for a taxable year shall be equal to a fraction, the numerator of which is the net increase in the total number of full-time employees employed in this state during the taxable year, determined on an annual full-time equivalent basis, as compared with the total number of full-time employees

employed in this state during the base year, determined on the same basis, and the denominator of which shall be the total number of qualified full-time employees employed in this state during the taxable year. The applicable percentage shall not exceed 100 percent.

(3) The "applicable credit percentage" means the credit percentage for the calendar year during which a qualified full-time employee was first employed by the qualified taxpayer. The applicable credit percentage for all calendar years shall be 35 percent.

(4) "Base year" means the 2013 taxable year, or in the case of a qualified taxpayer who first hires a qualified full-time employee in a taxable year beginning on or after January 2015, the taxable year immediately preceding the taxable year in which the qualified full-time employee was hired.

(5) "Acquired" includes any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual full-time equivalent" means the total number of hours worked for the qualified taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

(B) In the case of a salaried full-time employee, "annual full-time equivalent" means the total number of weeks worked for the qualified taxpayer by the employee divided by 52.

(7) "Designated census tract" means a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25 percent of all census tracts within the state and has a poverty rate within the top 25 percent of all census tracts within the state, as prescribed in Section 13073.5 of the Government Code.

(8) "Former enterprise zone" means an enterprise zone designated as of December 31, 2011, and any expansion of an enterprise zone prior to December 31, 2012, under former Chapter 12.8 (commencing with former Section 7070) of Division 7 of Title 1 of the Government Code, as in effect on December 31, 2012, excluding any census tract within an enterprise zone that is identified by the Department of Finance pursuant to Section 13073.5 of the Government Code as a census tract within the lowest

quartile of census tracts with the lowest civilian unemployment and poverty.

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

(10) (A) "Qualified full-time employee" means an individual who meets all of the following requirements:

(i) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a designated census tract or former enterprise zone.

(ii) Receives starting wages that are at least 150 percent of the minimum wage.

(iii) Is hired by the qualified taxpayer on or after January 1, 2014.

(iv) Is hired by the qualified taxpayer after the date the Department of Finance determines that the census tract referred to in clause (i) is a designated census tract or that the census tracts within a former enterprise zone are not census tracts with the lowest civilian unemployment and poverty.

(v) Satisfies either of the following conditions:

(I) Is paid qualified wages by the qualified taxpayer for services not less than an average of 35 hours per week.

(II) Is a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified taxpayer.

(vii) Upon commencement of employment with the qualified taxpayer, satisfies any of the following conditions:

(I) Was unemployed for the six months immediately preceding employment with the qualified taxpayer. In the case of an individual who completed a program of study at a college, university, or other postsecondary educational institution, received a baccalaureate, postgraduate, or professional degree, and was unemployed for the six months immediately preceding employment with the qualified taxpayer, that individual must have completed that program of study at least 12 months prior to the individual's commencement of employment with the qualified taxpayer.

(II) Is a veteran that had not been employed since separation from service in the Armed Forces of the United States.

(III) Was a recipient of the credit allowed under Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal purposes, for the previous taxable year.

(IV) Was an ex-offender, within the meaning of Section 23622.7.

(B) An individual may only be considered a qualified full-time employee for the period of time commencing with the date the individual is first employed by the qualified taxpayer and ending 60 months thereafter.

(11) (A) "Qualified taxpayer" means a corporation engaged in a trade or business within designated census tract or former enterprise zone that, during the taxable year, pays or incurs qualified wages.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.73 shall be allowed to the pass-thru entity and passed through to the partners and shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subdivision, the term "pass-thru entity" means any partnership or "S" corporation.

(C) "Qualified taxpayer" shall not include any of the following:

(i) Employers that provide temporary help services, as described in Code 561320 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(ii) Employers that provide retail trade services, as described in Sector 44-45 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iii) Employers that are primarily engaged in providing food services, as described in Code 711110, 722511, 722513, 722514, or 722515 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(iv) Employers that are primarily engaged in services as described in Code 713210, 721120, or 722410 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

(D) Subparagraph (C) shall not apply to a taxpayer that is a "small business."

(12) "Qualified wages" means those wages that meet all of the following requirements:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150 percent of minimum wage, but does not exceed 350 percent of the minimum wage.

(B) Wages paid or incurred during the 60-month period beginning with the first day the qualified full-time employee commences employment with the qualified taxpayer. In the case of any employee who is reemployed, including regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer, this reemployment shall not be treated as constituting commencement of employment for purposes of this section.

(C) Except as provided in paragraph (3) of subdivision (m), qualified wages shall not include any wages paid or incurred by the qualified taxpayer on or after the date that the Department of Finance's redesignation of designated census tracts is effective, as provided in paragraph (2) of subdivision (g), so that a census tract is no longer determined to be a designated census tract.

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

(14) (A) "Small business" means a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than two million dollars ($2,000,000) during the previous taxable year.

(B) (i) For purposes of this paragraph, "gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(ii) In the case of any trade or business activity conducted by a partnership or an "S" corporation, the limitations set forth in subparagraph (A) shall be applied to the partnership or "S" corporation and to each partner or shareholder.

(iii) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the dollar amount

specified in subparagraph (A) shall apply to the aggregate gross receipts of all taxpayers that are required to be or authorized to be included in a combined report.

(15) An individual is "unemployed" for any period for which the individual is all of the following:

(A) Not in receipt of wages subject to withholding under Section 13020 of the Unemployment Insurance Code for that period.

(B) Not a self-employed individual (within the meaning of Section 401(c)(1)(B) of the Internal Revenue Code, relating to self-employed individual) for that period.

(C) Not a registered full-time student at a high school, college, university, or other postsecondary educational institution for that period.

(c) The net increase in full-time employees of a qualified taxpayer shall be determined as provided by this subdivision:

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

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

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

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

(d) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (g) of Section 24416.20, without application of paragraph (7) of that subdivision, shall apply.

(e) (1) To be eligible for the credit allowed by this section, a qualified taxpayer shall, upon hiring a qualified full-time employee, request a tentative credit reservation from the Franchise Tax Board within 30 days of complying with the Employment Development

Department's new hire reporting requirement as provided in Section 1088.5 of the Unemployment Insurance Code, in the form and manner prescribed by the Franchise Tax Board.

(2) To obtain a tentative credit reservation with respect to a qualified full-time employee, the qualified taxpayer shall provide necessary information, as determined by the Franchise Tax Board, including the name, the social security number, the start date of employment, the rate of pay of the qualified full-time employee, the qualified taxpayer's gross receipts, less returns and allowances, for the previous taxable year, and whether the qualified full-time employee is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013.

(3) The qualified taxpayer shall provide the Franchise Tax Board an annual certification of employment with respect to each qualified full-time employee hire in a previous taxable year, on or before the 15th day of the third month of the taxable year. The certification shall include necessary information, as determined by the Franchise Tax Board, including the name, social security number, start date of employment, and rate of pay for each qualified full-time employee employed by the qualified taxpayer.

(4) A tentative credit reservation provided to a taxpayer with respect to an employee of that taxpayer shall not constitute a determination by the Franchise Tax Board with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(f) The Franchise Tax Board shall do all of the following:

(1) Approve a tentative credit reservation with respect to a qualified full-time employee hired during a calendar year.

(2) Determine the aggregate tentative reservation amount and the aggregate small business tentative reservation amount for a calendar year.

(3) A tentative credit reservation request from a qualified taxpayer with respect to a qualified full-time employee who is a resident of a targeted employment area, as defined in former Section 7072 of the Government Code, as in effect on December 31, 2013, shall be expeditiously processed by the Franchise Tax Board. The residence of a qualified full-time employee in a targeted employment area shall have no other effect on the eligibility of an

individual as a qualified full-time employee or the eligibility of a qualified taxpayer for the credit authorized by this section.

(4) Notwithstanding Section 19542, provide as a ~~searchabledatabase~~ *searchable database* on its Internet Web site, for each taxable year beginning on or after January 1, 2014, and before January 1, ~~2019,~~ *2021,* the employer names, amounts of tax credit claimed, and number of new jobs created for each taxable year pursuant to this section and Section 17053.73.

(g) (1) The Department of Finance shall, by January 1, 2014, and by January 1 of every fifth year thereafter, provide the Franchise Tax Board with a list of the designated census tracts and a list of census tracts with the lowest civilian unemployment rate.

(2) The redesignation of designated census tracts and lowest civilian unemployment census tracts by the Department of Finance as provided in Section 13073.5 of the Government Code shall be effective, for purposes of this credit, one year after the date that the Department of Finance redesignates the designated census tracts.

(h) (1) For purposes of this section:

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

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

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

(D) If a qualified taxpayer acquires the major portion of a trade or business of another taxpayer, hereinafter in this paragraph referred to as the predecessor, or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after that acquisition, the employment relationship between a qualified full-time employee and a qualified taxpayer shall not be treated as terminated if the employee continues to be employed in that trade or business.

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

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

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

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

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

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

(i) (1) If the employment of any qualified full-time employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the qualified taxpayer at any time during the first 36 months after commencing employment with the qualified taxpayer, whether or not consecutive, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of a qualified full-time employee who voluntarily leaves the employment of the qualified taxpayer.

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

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

(D) A termination of employment of a qualified full-time employee due to a substantial reduction in the trade or business operations of the qualified taxpayer, including reductions due to seasonal employment.

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

(F) A termination of employment of a qualified full-time employee, when that employment is considered seasonal employment and the qualified employee is rehired on a seasonal basis.

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

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

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

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

(*l*) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the ~~2018–19~~ *2020–21* fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(m) (1) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

(2) Notwithstanding paragraph (1) of subdivision (a), this section shall continue to be operative for taxable years beginning on or after January 1, ~~2019,~~ *2021,* but only with respect to qualified full-time employees who commenced employment with a qualified taxpayer in a designated census tract or former enterprise zone in a taxable year beginning before January 1, ~~2019~~ *2021*.

(3) This section shall remain operative for any qualified taxpayer with respect to any qualified full-time employee after the designated census tract is no longer designated or a former enterprise zone ceases to be a former enterprise zone, as defined in this section, for the remaining period, if any, of the 60-month period after the original date of hiring of an otherwise qualified full-time employee and any wages paid or incurred with respect to those qualified full-time employees after the designated census tract is no longer designated or a former enterprise zone ceases to be a former enterprise zone, ad defined in this section, shall be treated as qualified wages under this section, provided the employee satisfies any other requirements of paragraphs (10) and (12) of subdivision (b), as if the designated census tract was still designated and binding.

SEC. 34. Section 23633 of the Revenue and Taxation Code is amended to read:

23633. (a) For each taxable year beginning on or after January 1, 1998, and before January 1, 2014, there shall be allowed as a credit against the "tax" (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the qualified taxpayer in connection

with the qualified taxpayer's purchase of qualified property before January 1, 2014.

(b) For purposes of this section:

(1) "Qualified property" means property that meets all of the following requirements:

(A) Is any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, such as computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, such as cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any qualified taxpayer for purposes of claiming this credit shall not exceed twenty million dollars ($20,000,000).

(C) The qualified property is used by the qualified taxpayer exclusively in a targeted tax area.

(D) The qualified property is purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(2) (A) "Qualified taxpayer" means a corporation that meets both of the following:

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

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

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.33 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term "pass-through entity" means any partnership or S corporation.

(3) "Targeted tax area" means the area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(c) If the qualified taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(d) If the qualified taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided by this section shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(e) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the qualified property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the qualified taxpayer's purchase of qualified property.

(g) (1) The amount of credit otherwise allowed under this section and Section 23634, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (e). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (e).

(5) In the event that a credit carryover is allowable under subdivision (e) for any taxable year after the targeted tax area designation has expired, has been revoked, is no longer binding, or has become inoperative, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(h) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(i) This section is repealed on December 1, 2014.

SEC. 35. Section 23634 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in

accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

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

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, becomes inoperative, or is repealed.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) CalFresh benefits.

(dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the

qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

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

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 36. Section 23645 of the Revenue and Taxation Code is amended to read:

23645. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2014, there shall be allowed as a credit against the "tax" (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property before January 1, 2014, to the extent that the qualified property does not exceed a value of twenty million dollars ($20,000,000).

(b) For purposes of this section:

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

(2) "Taxpayer" means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

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

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

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

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

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

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

(3) "Qualified property" means property that is each of the following:

(A) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(B) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(C) Any of the following:

(i) High technology equipment, including, but not limited to, computers and electronic processing equipment.

(ii) Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts, and tugs.

(iii) Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels, and tires.

(iv) Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall only be allowed for qualified property manufactured in California unless qualified property of a comparable quality and price is not available for timely purchase and delivery from a California manufacturer.

(d) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit which exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) (1) The amount of the credit otherwise allowed under this section and Section 23646, including any credit carryovers from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributable income represented all the income of the taxpayer subject to tax under this part.

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

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

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value

of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (d). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014, if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (d).

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the LAMBRA, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer's tax liability in the taxable year of that disposition or nonuse.

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

(h) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(i) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(j) This section is repealed on December 1, 2014.

SEC. 37. Section 23646 of the Revenue and Taxation Code is amended to read:

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a

qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) CalFresh benefits.

(IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in the succeeding ~~five~~ *10* taxable years, if necessary,

until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

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

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h). However, the portion of any credit remaining for carryover to taxable years beginning on or after January 1, 2014,

if any, after application of this subdivision, shall be carried over only to the succeeding ~~five~~ *10* taxable years, if necessary, until the credit is exhausted, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

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

(k) (1) Except as provided in paragraph (2), this section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2019.

(2) The section shall continue to apply with respect to qualified employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period immediately preceding January 1, 2014, and qualified wages paid or incurred with respect to those qualified employees shall continue to qualify for the credit under this section for taxable years beginning on or after January 1, 2014, in accordance with this section, as amended by the act adding this subdivision.

SEC. 38. Section 23689 is added to the Revenue and Taxation Code, to read:

23689. (a) (1) For each taxable year beginning on and after January 1, 2014, and before January 1, 2025, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount as determined by the committee pursuant to paragraph (2) and approved pursuant to Section 18410.2.

(2) The amount of credit allocated to a taxpayer for a taxable year pursuant to this section shall be as set forth in a written agreement between GO-Biz and the taxpayer and shall be based on the following factors:

(A) The number of jobs the taxpayer will create or retain in this state.

(B) The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits.

(C) The amount of investment in this state by the taxpayer.

(D) The extent of unemployment *or poverty* in the area *according to the United States Census* in which the taxpayer's project or business is proposed or located.

(E) The incentives available to the taxpayer in the state, including incentives from the state, local government and other entities.

(F) The incentives available to the taxpayer in other states.

(G) The duration of the proposed project and the duration the taxpayer commits to remain in this state.

(H) The overall economic impact in this state of the taxpayer's project or business.

(I) The strategic importance of the taxpayer's project or business to the state, region, or locality.

(J) The opportunity for future growth and expansion in this state by the taxpayer's business.

(K) The extent to which the anticipated benefit to the state exceeds the projected benefit to the taxpayer from the tax credit.

(3) The written agreement entered into pursuant to paragraph (2) shall include:

(A) Terms and conditions that include a minimum compensation level and a minimum job retention period.

(B) Provisions indicating whether the credit is to be allocated in full upon approval or in increments based on mutually agreed upon milestones when satisfactorily met by the taxpayer.

(C) Provisions that allow the committee to recapture the credit, in whole or in part, if the taxpayer fails to fulfill the terms and conditions of the written agreement.

(b) For purposes of this section:

(1) "Committee" means the California Competes Tax Credit Committee established pursuant to Section 18410.2.

(2) "GO-Biz" means the Governor's Office of Business and Economic Development.

(c) For purposes of this section, GO-Biz shall do the following:

(1) Give priority to a taxpayer whose project or business is located or proposed to be located in an area of high unemployment or poverty.

(2) Negotiate with a taxpayer the terms and conditions of proposed written agreements that provide the credit allowed pursuant to this section to a taxpayer.

(3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(6) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a "small business," as defined in Section 23626, review the books and records of the taxpayer allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayers and GO-Biz when, in the sole discretion of the Franchise Tax Board, a review of those books and records is appropriate or necessary in the best interests of the state.

(2) Notwithstanding Section 19542:

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

(B) Provide information to GO-Biz with respect to whether a taxpayer is a "small business," as defined in Section 23626.

(e) In the case where the credit allowed under this section exceeds the "tax," as defined in Section 23036, for a taxable year, the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(f) Any recapture, in whole or in part, of a credit approved by the committee pursuant to Section 18410.2 shall be treated as a

mathematical error appearing on the return. Any amount of tax resulting from that recapture shall be assessed by the Franchise Tax Board in the same manner as provided by Section 19051. The amount of tax resulting from the recapture shall be added to the tax otherwise due by the taxpayer for the taxable year in which the committee's recapture determination occurred.

(g) (1) The aggregate amount of credit that may be allocated in any fiscal year pursuant to this section and Section 17059.2 shall be an amount equal to the sum of subparagraphs (A), (B), and (C), less the amount specified in subparagraph (D):

(A) Thirty million dollars ($30,000,000) for the 2013–14 fiscal year, one hundred fifty million dollars ($150,000,000) for the 2014–15 fiscal year, and two hundred million dollars ($200,000,000) for each fiscal year from 2015–16 to 2018–19, inclusive.

(B) The unallocated credit amount, if any, from the preceding fiscal year.

(C) The amount of any previously allocated credits that have been recaptured.

(D) The amount estimated by the Director of Finance, in consultation with the Franchise Tax Board and the State Board of Equalization, to be necessary to limit the aggregation of the estimated amount of exemptions claimed pursuant to Section 6377.1 and of the amounts estimated to be claimed pursuant to this section and Sections 17053.73, ~~23626, and 23689~~ *17059.2, and 23626* to no more than seven hundred fifty million dollars ($750,000,000) for either the current fiscal year or for any of the three succeeding fiscal years.

(i) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee of the estimated annual allocation authorized by this paragraph. Any allocation pursuant to these provisions shall be made no sooner than 30 days after written notification has been provided to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriation, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

(ii) In no event shall the amount estimated in this subparagraph be less than zero dollars ($0).

(2) Each fiscal year, 25 percent of the aggregate amount of the credit that may be allocated pursuant to this section and Section 17059.2 shall be reserved for "small business," as defined in Section 17053.73 or 23626.

(3) Each fiscal year, no more than 20 percent of the aggregate amount of the credit that shall be allocated pursuant to this section may be allocated to any one taxpayer.

(h) GO-Biz may prescribe rules and regulations as necessary to carry out the purposes of this section. Any rule or regulation prescribed pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) (1) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section shall not restrict, broaden, or otherwise alter the ability of the taxpayer to assign that credit or any portion thereof in accordance with Section 23663.

~~(i)~~

(2) A written agreement between GO-Biz and a taxpayer with respect to the credit authorized by this section must comply with existing law on the date the agreement is executed.

(j) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of credits that will be claimed under this section with respect to each fiscal year from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

(2) The Franchise Tax Board shall annually provide to the Joint Legislative Budget Committee, by no later than March 1, a report of the total dollar amount of the credits claimed under this section with respect to the relevant fiscal year. The report shall compare the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year. If the total dollar amount of credits claimed for the fiscal year is less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

(k) This section is repealed on December 1, 2025.

SEC. 39. Section 24356.6 of the Revenue and Taxation Code is amended to read:

24356.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat 40 percent of the cost of any Section 24356.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 24356.6 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.6 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245 (a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the qualified taxpayer for exclusive use in a trade or business conducted within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code. However, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants.

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted

basis of that property in the hands of the person from who it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of that property that is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the qualified taxpayer may not make an election under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b), both of the following apply:

(A) All members of an affiliated group shall be treated as one qualified taxpayer.

(B) The qualified taxpayer shall apportion the dollar limitation contained in subdivision (f) among the members of the affiliated group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" means "affiliated group" as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) (1) For purposes of this section, "qualified taxpayer" means a corporation that meets both of the following:

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

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

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 17267.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with

Section 17001). For purposes of this subparagraph, the term "pass-through entity" means any partnership or S corporation.

(e) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.6 property. However, the qualified taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.6 property is placed in service.

(f) The aggregate cost of all Section 24356.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 40. Section 24356.7 of the Revenue and Taxation Code is amended to read:

24356.7. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.7 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.7 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.7 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.7 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Sections 24427 through 24429. However, in applying Sections 24428 and 24429 for purposes of this section, subdivision (d) of Section 24429 shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants.

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of that property that is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the taxpayer could not make a federal election under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b) of this section, both of the following apply:

(A) All members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the members of the affiliated group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" means "affiliated group" as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a bank or corporation that conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.7 property. However, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000

Each taxable year thereafter 50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer's trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 41. Section 24356.8 of the Revenue and Taxation Code is amended to read:

24356.8. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any Section 24356.8 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.8 property in service.

(b) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 24356.8 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.8 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(C) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b), both of the following apply:

(A) All members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the component members of the affiliated group in whatever manner the board shall by regulations prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code.

(8) In the case of an S corporation, the dollar limitation contained in subdivision (f) shall be applied at the entity level and at the shareholder level.

(d) For purposes of this section:

(1) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(2) "Taxpayer" means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

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

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

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

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

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

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.8 property.

(f) The aggregate cost of all Section 24356.8 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (d), then the amount of the deduction previously claimed shall be added to the taxpayer's net income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 42. Section 24384.5 of the Revenue and Taxation Code is amended to read:

24384.5. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer before January 1, 2014, in payment of indebtedness of a person or entity engaged in a trade or business located in an enterprise zone.

(b) A deduction shall not be allowed under this section unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business is located solely within an enterprise zone.

(2) The indebtedness is incurred solely in connection with activity within the enterprise zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(d) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 43. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. (a) The term "qualified taxpayer" as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this subdivision as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The enterprise zone" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:

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

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

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

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(3) The changes made to this subdivision by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1998.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.4, 24416.5, or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section, or Section 24416.4, 24416.5, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 44. Section 24416.5 of the Revenue and Taxation Code is amended to read:

24416.5. (a) For each taxable year beginning on or after January 1, 1995, the term "qualified taxpayer" as used in Section 24416.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that

ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

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

(4) "Taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph, all of the following shall apply:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. The deduction shall be allowed only if the taxpayer has a net increase in jobs in the state, and if one or more full-time employees are employed within the LAMBRA.

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

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

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

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

(5) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's business activities within a LAMBRA prior to the LAMBRA expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Loss shall be apportioned to a LAMBRA by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The LAMBRA" shall be substituted for "this state."

(6) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to a LAMBRA.

(7) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

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

(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value

of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

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

(B) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (D) and allowing a net operating loss deduction.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.4, or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) This section shall apply to taxable years beginning on and after January 1, 1998.

(f) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 45. Section 24416.6 of the Revenue and Taxation Code is amended to read:

24416.6. (a) For each taxable year beginning on or after January 1, 1998, the term "qualified taxpayer" as used in Section 24416.1 includes a corporation that meets both of the following:

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

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level.

(b) For purposes of subdivision (a), all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the qualified taxpayer conducts a trade or business is designated as a targeted tax area shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the qualified taxpayer's business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code) prior to the targeted tax area expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The targeted tax area" shall be substituted for "this state."

(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer's business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing

with Section 7097) of Division 7 of Title 1 of the Government Code.

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

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

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

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

(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.

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

(c) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net

operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (e).

(d) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.4, or 24416.5 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

(f) This section shall apply to taxable years beginning on or after January 1, 1998.

(g) This section shall cease to be operative for taxable years beginning on or after January 1, 2014, and shall be repealed on December 1, 2014.

SEC. 46. There is hereby appropriated up to six hundred thousand dollars ($600,000) from the General Fund for allocation to the committee and departments that are required to administer this act by the Director of Finance in furtherance of the objectives of this act. An allocation of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature, or no sooner than any lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

SEC. 47. (a) Sections 6377.1, 17053.73, 17059.2, 18410.2, 23636, and 23689 of the Revenue and Taxation Code, added by this act, should not remain effective and operative if the repeal of Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17053.80, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7, 23622.8, 23623, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6, as provided for in this act, is determined by a court to be invalid and, as a result, those sections remain effective and operative.

(b) The provisions of Sections 17059.2 and 23689 are severable. If any provision of Section 17059.2 or Section 23689, or the application of either section, is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 48. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the public good by providing certainty regarding the incentives available for attracting and retaining jobs in economically distressed areas of the state, it is necessary that this act take effect immediately.

CORRECTIONS:

Heading—Amended Line—Page 1.

Text—Pages 15, 73, 74, 79, 80, 83, 117, 118, 119, and 130.

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