

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 434

Introduced by ~~Senator~~ *Senators Hill and Wolk*
(Coauthors: Assembly Members Gordon and Mullin)

February 21, 2013

An act to amend and repeal Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of, ~~and~~ to add Section 41 to, *and to add and repeal Sections 17053.90 and 23690 of* the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Hill. Personal income and corporation taxes: hiring credits: enterprise zones, LAMBRA, manufacturing enhancement areas, and targeted tax areas.

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

This bill would, among other things, revise the percentage of qualified wages allowed per year of employment with regard to determining the credit ~~amount~~; *amount*, limit the application of these credits to only the qualified wages for each net increase of qualified employees, as specified, limit credit eligibility ~~for~~ *with respect to* taxpayers that relocate to an enterprise zone, a LAMBRA, a manufacturing enhancement area, or a targeted tax area from within the state to those taxpayers that offer each employee from the previous location or locations a written ~~bona fide offer of employment in the new location~~;

notice of transfer to the new location with comparable compensation, revise the definitions of “qualified wages” and “qualified taxpayer,” cap the aggregate amount of credit allowed per taxable year for specified hiring credits, as provided, and require the Franchise Tax Board to publish specified information on its Internet Web site, as provided.

This bill would make the credit inoperative on January 1, 2019, and, as of December 1, 2019, would repeal the credit for a taxpayer who employs a qualified employee in an enterprise zone, as specified. The bill would instead allow a credit for a taxpayer who hires a qualified full-time employee, as specified, and allow a credit for a taxpayer who, among other things, maintains a net increase in qualified full-time employees, as specified.

This bill would additionally prohibit a person from charging a contingent fee, as defined, for services rendered in connection with a tax credit relating to enterprise zones, LAMBRAs, manufacturing enhancement areas, or targeted tax areas and would impose a penalty for the violation of this prohibition, as specified. This bill would require that, upon request of the Franchise Tax Board, that a person rendering these services provide, under penalty of perjury, a written certification that a fee for those services does not include a contingent fee.

By expanding the definition of an existing crime, this bill imposes a state-mandated local program.

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

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

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

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 41 is added to the Revenue and Taxation
- 2 Code, to read:

1 41. (a) Notwithstanding any other law, a person shall not
2 charge a contingent fee for services rendered in connection with
3 a tax credit relating to an enterprise zone, a LAMBRA, a
4 manufacturing enhancement area, or a targeted tax area.

5 (b) For purposes of this section, “contingent fee” means any fee
6 charged upon the occurrence of a contingency and includes, but
7 is not limited to, a fee that is based on a percentage of the refund
8 reported on a return, a fee that is based on a percentage of the taxes
9 reduced, or a fee that depends upon the specific tax result attained.

10 (c) A penalty shall be imposed under this section upon the
11 person charging a contingent fee for services rendered in
12 connection with a tax credit relating to an enterprise zone, a
13 LAMBRA, a manufacturing enhancement area, or a targeted tax
14 area in an amount that is the greater of five thousand dollars
15 (\$5,000) or 100 percent of the contingent fee charged, whether or
16 not any contingent fee was actually paid or otherwise received,
17 directly or indirectly, by the service provider.

18 (d) (1) The penalty imposed under subdivision (c) shall be due
19 and payable upon notice and demand by the Franchise Tax Board.

20 (2) Article 3 (commencing with Section 19031) of Part 10.2
21 shall not apply with respect to the assessment or collection of any
22 penalty imposed under subdivision (c).

23 (e) The Legislature finds and declares that contingent fees for
24 services rendered in connection with a tax credit relating to an
25 enterprise zone, a LAMBRA, a manufacturing enhancement area,
26 or a targeted tax area are against public policy and any contract or
27 arrangement that provides for a contingent fee is void and
28 unenforceable.

29 (f) Any person rendering services in connection with a tax credit
30 relating to an enterprise zone, a LAMBRA, a manufacturing
31 enhancement area, or a targeted tax area may be required to
32 provide, upon request of the board of the Franchise Tax Board, a
33 written certification, submitted under penalty of perjury, that the
34 fee for those services does not include, in whole or in part, a
35 contingent fee.

36 (g) The Franchise Tax Board may prescribe rules, guidelines,
37 or procedures necessary or appropriate to carry out the purposes
38 of this section.

39 (h) This section shall apply to all contracts or arrangements that
40 provide for a fee for services rendered in connection with a tax

1 credit relating to an enterprise zone, a LAMBRA, a manufacturing
2 enhancement area, or a targeted tax area on or after the effective
3 date of this act.

4 SEC. 2. Section 17053.34 of the Revenue and Taxation Code
5 is amended to read:

6 17053.34. (a) (1) For each taxable year beginning on or after
7 January 1, 1998, and before January 1, 2013, there shall be allowed
8 a credit against the “net tax” (as defined in Section 17039) to a
9 qualified taxpayer who employs a qualified employee in a targeted
10 tax area during the taxable year. The credit shall be equal to the
11 sum of each of the following:

12 (A) Fifty percent of qualified wages in the first year of
13 employment.

14 (B) Forty percent of qualified wages in the second year of
15 employment.

16 (C) Thirty percent of qualified wages in the third year of
17 employment.

18 (D) Twenty percent of qualified wages in the fourth year of
19 employment.

20 (E) Ten percent of qualified wages in the fifth year of
21 employment.

22 (2) (A) For each taxable year beginning on or after January 1,
23 2013, and before January 1, 2019, there shall be allowed a credit
24 against the “net tax,” as defined in Section 17039, to a qualified
25 taxpayer who employs a qualified employee in a targeted tax area
26 during the taxable year. The credit shall be equal to the sum of
27 each of the following:

28 (i) Ten percent of qualified wages in the first year of
29 employment.

30 (ii) Ten percent of qualified wages in the second year of
31 employment.

32 (iii) Thirty percent of qualified wages in the third year of
33 employment.

34 (iv) Forty percent of qualified wages in the fourth year of
35 employment.

36 (v) Fifty percent of qualified wages in the fifth year of
37 employment.

38 (B) The credit shall be allowed only with respect to qualified
39 wages paid for each net increase in qualified employees. A net

1 increase shall be determined by subtracting from the amount
2 determined in clause (i) the amount determined in clause (ii).

3 (i) The total number of qualified employees employed in the
4 state in the preceding taxable year by the qualified taxpayer and
5 by any trade or business acquired by the qualified taxpayer during
6 the preceding taxable year.

7 (ii) The total number of qualified employees employed in the
8 state in the current taxable year by the qualified taxpayer and by
9 any trade or business acquired by the qualified taxpayer during
10 the current taxable year.

11 (C) If a qualified taxpayer relocated to a targeted tax area from
12 within the state during the taxable year for which the credit is
13 claimed, the qualified taxpayer shall be allowed a credit with
14 respect to qualified wages for each net increase in qualified
15 employees only if the qualified taxpayer ~~makes~~ *provides* each
16 employee at the previous location or locations a written ~~bona fide~~
17 ~~offer of employment at the new location.~~ *notice of transfer to the*
18 *new location with comparable compensation. The qualified*
19 *taxpayer shall provide self-certification with documentation when*
20 *submitting a voucher application.*

21 (b) For purposes of this section:

22 (1) “Qualified wages” means:

23 (A) That portion of wages paid or incurred by the qualified
24 taxpayer during the taxable year to qualified employees that
25 exceeds 200 percent of the minimum wage and does not exceed
26 500 percent of the minimum wage.

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

33 (C) Qualified wages do not include any wages paid or incurred
34 by the qualified taxpayer on or after the targeted tax area expiration
35 date. However, wages paid or incurred with respect to qualified
36 employees who are employed by the qualified taxpayer within the
37 targeted tax area within the 60-month period prior to the targeted
38 tax area expiration date shall continue to qualify for the credit
39 under this section after the targeted tax area expiration date, in

1 accordance with all provisions of this section applied as if the
2 targeted tax area designation were still in existence and binding.

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

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

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

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

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

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

21 (iv) Is any of the following:

22 (I) Immediately preceding the qualified employee’s
23 commencement of employment with the qualified taxpayer, was
24 a person eligible for services under the federal Job Training
25 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
26 who is receiving, or is eligible to receive, subsidized employment,
27 training, or services funded by the federal ~~Job Training Partnership~~
28 ~~Act~~, *Workforce Investment Act of 1998* (29 U.S.C. Sec. 2801 et
29 seq.), or its successor.

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

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

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

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

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

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

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

18 ~~(aa)~~

19 (ia) Federal Supplemental Security Income benefits.

20 ~~(bb)~~

21 (ib) Aid to Families with Dependent Children.

22 ~~(cc)~~

23 (ic) CalFresh benefits.

24 ~~(dd)~~

25 (id) State and local general assistance.

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

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

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

37 (B) Priority for employment shall be provided to an individual
38 who is enrolled in a qualified program under the federal Job
39 Training Partnership Act or the Greater Avenues for Independence
40 Act of 1985 or who is eligible as a member of a targeted group

1 under the Work Opportunity Tax Credit (Section 51 of the Internal
2 Revenue Code), or its successor.

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

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

8 (ii) Is engaged in those lines of business described in Codes
9 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
10 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
11 of the Standard Industrial Classification (SIC) Manual published
12 by the United States Office of Management and Budget, 1987
13 edition.

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

22 (C) “Qualified taxpayer” shall not include employers that
23 provide temporary help services, as described in Code 561320 of
24 the North American Industry Classification System (NAICS).

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

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

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

32 (1) Obtain from the Employment Development Department, as
33 permitted by federal law, the local county or city Job Training
34 Partnership Act administrative entity, the local county GAIN office
35 or social services agency, or the local government administering
36 the targeted tax area, a certification that provides that a qualified
37 employee meets the eligibility requirements specified in clause
38 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
39 Employment Development Department may provide preliminary
40 screening and referral to a certifying agency. The Department of

1 Housing and Community Development shall develop regulations
2 governing the issuance of certificates pursuant to subdivision (g)
3 of Section 7097 of the Government Code, and shall develop forms
4 for this purpose.

5 (2) Retain a copy of the certification and provide it to the
6 Franchise Tax Board annually.

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

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

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

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

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

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

39 (B) If the seasonal employment of any qualified employee, with
40 respect to whom qualified wages are taken into account under

1 subdivision (a) is not continued by the qualified taxpayer for a
2 period of 270 days of employment during the 60-month period
3 beginning with the day the qualified employee commences seasonal
4 employment with the qualified taxpayer, the tax imposed by this
5 part, for the taxable year that includes the 60th month following
6 the month in which the qualified employee commences seasonal
7 employment with the qualified taxpayer, shall be increased by an
8 amount equal to the credit allowed under subdivision (a) for that
9 taxable year and all prior taxable years attributable to qualified
10 wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

37 (ii) A failure to continue the seasonal employment of a qualified
38 employee who, before the close of the period referred to in
39 subparagraph (B) of paragraph (1), becomes disabled and unable
40 to perform the services of that seasonal employment, unless that

1 disability is removed before the close of that period and the
2 qualified taxpayer fails to offer seasonal employment to that
3 qualified employee.

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

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

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

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

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

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

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

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

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

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

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

3 (j) (1) The amount of the credit otherwise allowed under this
4 section and Section 17053.33, including any credit carryover from
5 prior years, that may reduce the “net tax” for the taxable year shall
6 not exceed the amount of tax that would be imposed on the
7 qualified taxpayer’s business income attributable to the targeted
8 tax area determined as if that attributable income represented all
9 of the income of the qualified taxpayer subject to tax under this
10 part.

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

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

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

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

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

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

6 (k) (1) ~~For each taxable year beginning on or after January 1,~~
7 ~~2013, and before the 2014 calendar year, and each calendar year~~
8 ~~thereafter until January 1, 2019,~~ the total aggregate amount of
9 credits allowed pursuant to this section shall not exceed the total
10 aggregate amount of credits claimed pursuant to this section in the
11 ~~taxable year beginning on or after January 1, 2012, and before~~
12 ~~January 1, 2013, 2013 calendar year,~~ as determined by the
13 Franchise Tax Board.

14 (2) Upon receipt of a timely filed original return, the Franchise
15 Tax Board shall allocate the credit to the qualified taxpayer on a
16 first-come-first-served basis.

17 (l) (1) The Franchise Tax Board shall compile the certifications
18 submitted pursuant to paragraph (2) of subdivision (d) and shall
19 provide as a searchable database on its Internet Web site, for each
20 taxable year beginning on or after January 1, ~~2013, 2014,~~ and
21 before January 1, 2019, the employer names, amounts of tax credit
22 claimed, and number of new jobs created for each taxable year
23 pursuant to this section, Sections 17053.46, 17053.47, 17053.74,
24 23622.7, 23622.8, 23634, and 23646.

25 (2) The Franchise Tax Board may prescribe rules, guidelines,
26 or procedures necessary or appropriate to carry out the purposes
27 of this section, including any guidelines regarding the allocation
28 of the credit allowed under this section.

29 (m) This section shall remain in effect only until December 1,
30 2019, and as of that date is repealed.

31 SEC. 3. Section 17053.46 of the Revenue and Taxation Code
32 is amended to read:

33 17053.46. (a) (1) For each taxable year beginning on or after
34 January 1, 1995, and before January 1, 2013, there shall be allowed
35 as a credit against the “net tax” (as defined in Section 17039) to a
36 qualified taxpayer for hiring a qualified disadvantaged individual
37 or a qualified displaced employee during the taxable year for
38 employment in the LAMBRA. The credit shall be equal to the sum
39 of each of the following:

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

3 (B) Forty percent of the qualified wages in the second year of
4 employment.

5 (C) Thirty percent of the qualified wages in the third year of
6 employment.

7 (D) Twenty percent of the qualified wages in the fourth year of
8 employment.

9 (E) Ten percent of the qualified wages in the fifth year of
10 employment.

11 (2) (A) For each taxable year beginning on or after January 1,
12 2013, and before January 1, 2019, there shall be allowed as a credit
13 against the “net tax,” as defined in Section 17039, to a qualified
14 taxpayer for hiring a qualified disadvantaged individual or a
15 qualified displaced employee during the taxable year for
16 employment in the LAMBRA. The credit shall be equal to the sum
17 of each of the following:

18 (i) Ten percent of qualified wages in the first year of
19 employment.

20 (ii) Ten percent of qualified wages in the second year of
21 employment.

22 (iii) Thirty percent of qualified wages in the third year of
23 employment.

24 (iv) Forty percent of qualified wages in the fourth year of
25 employment.

26 (v) Fifty percent of qualified wages in the fifth year of
27 employment.

28 (B) The credit shall be allowed only with respect to qualified
29 wages paid for each net increase in qualified employees. A net
30 increase shall be determined by subtracting from the amount
31 determined in clause (i) the amount determined in clause (ii). For
32 purposes of this subparagraph, “qualified employees” means
33 qualified disadvantaged individuals and qualified displaced
34 employees.

35 (i) The total number of qualified employees employed in the
36 state in the preceding taxable year by the qualified taxpayer and
37 by any trade or business acquired by the qualified taxpayer during
38 the preceding taxable year.

39 (ii) The total number of qualified employees employed in the
40 state in the current taxable year by the qualified taxpayer and by

1 any trade or business acquired by the qualified taxpayer during
2 the current taxable year.

3 (C) If a qualified taxpayer relocated to a ~~targeted tax area~~
4 LAMBRA from within the state during the taxable year for which
5 the credit is claimed, the qualified taxpayer shall be allowed a
6 credit with respect to qualified wages for each net increase in
7 qualified employees only if the qualified taxpayer ~~makes~~ provides
8 each employee at the previous location or locations a written ~~bona~~
9 ~~fide offer of employment at the new location.~~ *notice of transfer to*
10 *the new location with comparable compensation.*

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) That portion of wages paid or incurred by the employer
14 during the taxable year to qualified disadvantaged individuals or
15 qualified displaced employees that exceeds 200 percent of the
16 minimum wage and does not exceed 500 percent of the minimum
17 wage.

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

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

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

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

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

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

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

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

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

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

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

18 (i) An individual who has been determined eligible for services
19 under the federal ~~Job Training Partnership~~ *Workforce Investment*
20 *Act of 1998* (29 U.S.C. Sec. ~~4501~~ 2801 et seq.).

21 (ii) Any voluntary or mandatory registrant under the Greater
22 Avenues for Independence Act of 1985 as provided pursuant to
23 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
24 3 of Division 9 of the Welfare and Institutions Code.

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

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

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

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

38 (III) Is long-term unemployed and has limited opportunities for
39 employment or reemployment in the same or a similar occupation
40 in the area in which the individual resides, including an individual

1 55 years of age or older who may have substantial barriers to
2 employment by reason of age.

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

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

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

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

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

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

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

26 (vii) A recipient of:

27 (I) Federal Supplemental Security Income benefits.

28 (II) Aid to Families with Dependent Children.

29 (III) CalFresh benefits.

30 (IV) State and local general assistance.

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

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

38 (A) The net increase in the number of jobs shall be determined
39 by subtracting the total number of full-time employees (defined
40 as 2,000 paid hours per employee per year) the taxpayer employed

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

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

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

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

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

26 (D) “Qualified taxpayer” shall not include employers that
27 provide temporary help services, as described in Code 561320 of
28 the North American Industry Classification System (NAICS).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (2) If an employer acquires the major portion of a trade or
36 business of another employer (hereinafter in this paragraph referred
37 to as the “predecessor”) or the major portion of a separate unit of
38 a trade or business of a predecessor, then, for purposes of applying
39 this section (other than subdivision (d)) for any calendar year
40 ending after that acquisition, the employment relationship between

1 an employee and an employer shall not be treated as terminated if
2 the employee continues to be employed in that trade or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 is attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101) of
3 Part 11. That business income shall be further apportioned to the
4 LAMBRA in accordance with Article 2 (commencing with Section
5 25120) of Chapter 17 of Part 11, modified for purposes of this
6 section in accordance with paragraph (3).

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

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

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

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

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

31 (k) (1) ~~For each taxable year beginning on or after January 1,~~
32 ~~2013, and before the 2014 calendar year, and each calendar year~~
33 ~~thereafter until January 1, 2019,~~ the total aggregate amount of
34 credits allowed pursuant to this section shall not exceed the total
35 aggregate amount of credits claimed pursuant to this section in the
36 ~~taxable year beginning on or after January 1, 2012, and before~~
37 ~~January 1, 2013, 2013 calendar year,~~ as determined by the
38 Franchise Tax Board.

1 (2) Upon receipt of a timely filed original return, the Franchise
2 Tax Board shall allocate the credit to the qualified taxpayer on a
3 first-come-first-served basis.

4 (l) (1) The Franchise Tax Board shall compile the certifications
5 submitted pursuant to paragraph (2) of subdivision (c) and shall
6 provide as a searchable database on its Internet Web site, for each
7 taxable year beginning on or after January 1, ~~2013~~, 2014, and
8 before January 1, 2019, the employer names, amounts of tax credit
9 claimed, and number of new jobs created for each taxable year
10 pursuant to this section, Sections 17053.34, 17053.47, 17053.74,
11 23622.7, 23622.8, 23634, and 23646.

12 (2) The Franchise Tax Board may prescribe rules, guidelines,
13 or procedures necessary or appropriate to carry out the purposes
14 of this section, including any guidelines regarding the allocation
15 of the credit allowed under this section.

16 (m) This section shall remain in effect only until December 1,
17 2019, and as of that date is repealed.

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

20 17053.47. (a) (1) For each taxable year beginning on or after
21 January 1, 1998, and before January 1, 2013, there shall be allowed
22 a credit against the “net tax” (as defined in Section 17039) to a
23 qualified taxpayer for hiring a qualified disadvantaged individual
24 during the taxable year for employment in the manufacturing
25 enhancement area. The credit shall be equal to the sum of each of
26 the following:

27 (A) Fifty percent of the qualified wages in the first year of
28 employment.

29 (B) Forty percent of the qualified wages in the second year of
30 employment.

31 (C) Thirty percent of the qualified wages in the third year of
32 employment.

33 (D) Twenty percent of the qualified wages in the fourth year of
34 employment.

35 (E) Ten percent of the qualified wages in the fifth year of
36 employment.

37 (2) (A) For each taxable year beginning on or after January 1,
38 2013, and before January 1, 2019, there shall be allowed as a credit
39 against the “net tax,” as defined in Section 17039, to a qualified
40 taxpayer for hiring a qualified disadvantaged individual during the

1 taxable year for employment in the manufacturing enhancement
2 area. The credit shall be equal to the sum of each of the following:
3 (i) Ten percent of qualified wages in the first year of
4 employment.
5 (ii) Ten percent of qualified wages in the second year of
6 employment.
7 (iii) Thirty percent of qualified wages in the third year of
8 employment.
9 (iv) Forty percent of qualified wages in the fourth year of
10 employment.
11 (v) Fifty percent of qualified wages in the fifth year of
12 employment.
13 (B) The credit shall be allowed only with respect to qualified
14 wages paid for each net increase in qualified employees. A net
15 increase shall be determined by subtracting from the amount
16 determined in clause (i) the amount determined in clause (ii). For
17 purposes of this subparagraph, “qualified employee” means
18 qualified disadvantaged individual.
19 (i) The total number of qualified employees employed in the
20 state in the preceding taxable year by the qualified taxpayer and
21 by any trade or business acquired by the qualified taxpayer during
22 the preceding taxable year.
23 (ii) The total number of qualified employees employed in the
24 state in the current taxable year by the qualified taxpayer and by
25 any trade or business acquired by the qualified taxpayer during
26 the current taxable year.
27 (C) If a qualified taxpayer relocated to a ~~targeted tax~~
28 *manufacturing enhancement* area from within the state during the
29 taxable year for which the credit is claimed, the qualified taxpayer
30 shall be allowed a credit with respect to qualified wages for each
31 net increase in qualified employees only if the qualified taxpayer
32 ~~makes provides~~ each employee at the previous location or locations
33 ~~a written bona fide offer of employment at the new location. notice~~
34 ~~of transfer to the new location with comparable compensation.~~
35 *The qualified taxpayer shall provide self-certification with*
36 *documentation when submitting a voucher application.*
37 (b) For purposes of this section:
38 (1) “Qualified wages” means:
39 (A) That portion of wages paid or incurred by the qualified
40 taxpayer during the taxable year to qualified disadvantaged

1 individuals that exceeds 200 percent of the minimum wage and
2 does not exceed 500 percent of the minimum wage.

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

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

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

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

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

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

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

38 (A) (i) At least 90 percent of whose services for the qualified
39 taxpayer during the taxable year are directly related to the conduct

1 of the qualified taxpayer's trade or business located in a
2 manufacturing enhancement area.

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

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

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

12 (i) An individual who has been determined eligible for services
13 under the federal ~~Job Training Partnership~~ *Workforce Investment*
14 *Act of 1998* (29 U.S.C. Sec. ~~4501~~ 2801 et seq.), or its successor.

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

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

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

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

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

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

1 (B) “Qualified taxpayer” shall not include employers that
2 provide temporary help services, as described in Code 561320 of
3 the North American Industry Classification System (NAICS).

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

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

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

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

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

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

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

1 (B) If the seasonal employment of any qualified disadvantaged
2 individual, with respect to whom qualified wages are taken into
3 account under subdivision (a) is not continued by the qualified
4 taxpayer for a period of 270 days of employment during the
5 60-month period beginning with the day the qualified
6 disadvantaged individual commences seasonal employment with
7 the qualified taxpayer, the tax imposed by this part, for the taxable
8 year that includes the 60th month following the month in which
9 the qualified disadvantaged individual commences seasonal
10 employment with the qualified taxpayer, shall be increased by an
11 amount equal to the credit allowed under subdivision (a) for that
12 taxable year and all prior taxable years attributable to qualified
13 wages paid or incurred with respect to that qualified disadvantaged
14 individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (k) (1) ~~For each taxable year beginning on or after January 1,~~
38 ~~2013, and before the 2014 calendar year, and each calendar year~~
39 ~~thereafter, until January 1, 2019,~~ the total aggregate amount of
40 credits allowed pursuant to this section shall not exceed the total

1 aggregate amount of credits claimed pursuant to this section in the
2 taxable year beginning on or after January 1, 2012, and before
3 January 1, 2013, 2013 calendar year, as determined by the
4 Franchise Tax Board.

5 (2) Upon receipt of a timely filed original return, the Franchise
6 Tax Board shall allocate the credit to the qualified taxpayer on a
7 first-come-first-served basis.

8 (l) (1) The Franchise Tax Board shall compile the certifications
9 submitted pursuant to paragraph (2) of subdivision (j) and shall
10 provide as a searchable database on its Internet Web site, for each
11 taxable year beginning on or after January 1, 2013, 2014, and
12 before January 1, 2019, the employer names, amounts of tax credit
13 claimed, and number of new jobs created for each taxable year
14 pursuant to this section, Sections 17053.34, 17053.46, 17053.74,
15 23622.7, 23622.8, 23634, and 23646.

16 (2) The Franchise Tax Board may prescribe rules, guidelines,
17 or procedures necessary or appropriate to carry out the purposes
18 of this section, including any guidelines regarding the allocation
19 of the credit allowed under this section.

20 (m) This section shall remain in effect only until December 1,
21 2019, and as of that date is repealed.

22 ~~SEC. 5. Section 17053.74 of the Revenue and Taxation Code~~
23 ~~is amended to read:~~

24 ~~17053.74. (a) (1) For taxable years beginning before January~~
25 ~~1, 2013, there shall be allowed a credit against the “net tax” (as~~
26 ~~defined in Section 17039) to a taxpayer who employs a qualified~~
27 ~~employee in an enterprise zone during the taxable year. The credit~~
28 ~~shall be equal to the sum of each of the following:~~

29 ~~(A) Fifty percent of qualified wages in the first year of~~
30 ~~employment.~~

31 ~~(B) Forty percent of qualified wages in the second year of~~
32 ~~employment.~~

33 ~~(C) Thirty percent of qualified wages in the third year of~~
34 ~~employment.~~

35 ~~(D) Twenty percent of qualified wages in the fourth year of~~
36 ~~employment.~~

37 ~~(E) Ten percent of qualified wages in the fifth year of~~
38 ~~employment.~~

39 (2) (A) For each taxable year beginning on or after January 1,
40 2013, and before January 1, 2019, there shall be allowed as a credit

1 against the “net tax,” as defined in Section 17039, to a taxpayer
2 who employs a qualified employee in an enterprise zone during
3 the taxable year shall be equal to the sum of each of the following:
4 (i) ~~Ten percent of qualified wages in the first year of~~
5 ~~employment.~~
6 (ii) ~~Ten percent of qualified wages in the second year of~~
7 ~~employment.~~
8 (iii) ~~Thirty percent of qualified wages in the third year of~~
9 ~~employment.~~
10 (iv) ~~Forty percent of qualified wages in the fourth year of~~
11 ~~employment.~~
12 (v) ~~Fifty percent of qualified wages in the fifth year of~~
13 ~~employment.~~
14 (B) ~~The credit shall be allowed only with respect to qualified~~
15 ~~wages paid for each net increase in qualified employees. A net~~
16 ~~increase shall be determined by subtracting from the amount~~
17 ~~determined in clause (i) the amount determined in clause (ii).~~
18 (i) ~~The total number of qualified employees employed in the~~
19 ~~state in the preceding taxable year by the taxpayer and by any trade~~
20 ~~or business acquired by the taxpayer during the preceding taxable~~
21 ~~year.~~
22 (ii) ~~The total number of qualified employees employed in the~~
23 ~~state in the current taxable year by the taxpayer and by any trade~~
24 ~~or business acquired by the taxpayer during the current taxable~~
25 ~~year.~~
26 (C) ~~If a taxpayer relocated to a targeted tax area from within~~
27 ~~the state during the taxable year for which the credit is claimed,~~
28 ~~the taxpayer shall be allowed a credit with respect to qualified~~
29 ~~wages for each net increase in qualified employees only if the~~
30 ~~taxpayer makes each employee at the previous location or locations~~
31 ~~a written bona fide offer of employment at the new location.~~
32 (b) ~~For purposes of this section:~~
33 (1) ~~“Qualified wages” means:~~
34 (A) (i) ~~Except as provided in clause (ii), that portion of wages~~
35 ~~paid or incurred by the taxpayer during the taxable year to qualified~~
36 ~~employees that exceeds 200 percent of the minimum wage and~~
37 ~~does not exceed 500 percent of the minimum wage.~~
38 (ii) ~~For up to 1,350 qualified employees who are employed by~~
39 ~~the taxpayer in the Long Beach Enterprise Zone in aircraft~~
40 ~~manufacturing activities described in Codes 3721 to 3728,~~

1 inclusive, and Code 3812 of the Standard Industrial Classification
2 (SIC) Manual published by the United States Office of
3 Management and Budget, 1987 edition, “qualified wages” means
4 that portion of hourly wages that does not exceed 202 percent of
5 the minimum wage.

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

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

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

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

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

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

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

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

36 (iv) Is any of the following:

37 (I) Immediately preceding the qualified employee’s
38 commencement of employment with the taxpayer, was a person
39 eligible for services under the federal Job Training Partnership
40 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,

1 or is eligible to receive, subsidized employment, training, or
2 services funded by the federal Job Training Partnership Act, or its
3 successor.

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

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

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

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

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

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

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

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

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

- 1 ~~(gg) Is a seasonal or migrant worker who experiences chronic~~
- 2 ~~seasonal unemployment and underemployment in the agriculture~~
- 3 ~~industry, aggravated by continual advancements in technology and~~
- 4 ~~mechanization.~~
- 5 ~~(hh) Has been terminated or laid off, or has received a notice~~
- 6 ~~of termination or layoff, as a consequence of compliance with the~~
- 7 ~~Clean Air Act.~~
- 8 ~~(V) Immediately preceding the qualified employee’s~~
- 9 ~~commencement of employment with the taxpayer, was a disabled~~
- 10 ~~individual who is eligible for or enrolled in, or has completed a~~
- 11 ~~state rehabilitation plan or is a service-connected disabled veteran,~~
- 12 ~~veteran of the Vietnam era, or veteran who is recently separated~~
- 13 ~~from military service.~~
- 14 ~~(VI) Immediately preceding the qualified employee’s~~
- 15 ~~commencement of employment with the taxpayer, was an~~
- 16 ~~ex-offender. An individual shall be treated as convicted if he or~~
- 17 ~~she was placed on probation by a state court without a finding of~~
- 18 ~~guilt.~~
- 19 ~~(VII) Immediately preceding the qualified employee’s~~
- 20 ~~commencement of employment with the taxpayer, was a person~~
- 21 ~~eligible for or a recipient of any of the following:~~
- 22 ~~(aa) Federal Supplemental Security Income benefits.~~
- 23 ~~(bb) Aid to Families with Dependent Children.~~
- 24 ~~(cc) CalFresh benefits.~~
- 25 ~~(dd) State and local general assistance.~~
- 26 ~~(VIII) Immediately preceding the qualified employee’s~~
- 27 ~~commencement of employment with the taxpayer, was a member~~
- 28 ~~of a federally recognized Indian tribe, band, or other group of~~
- 29 ~~Native American descent.~~
- 30 ~~(IX) Immediately preceding the qualified employee’s~~
- 31 ~~commencement of employment with the taxpayer, was a resident~~
- 32 ~~of a targeted employment area, as defined in Section 7072 of the~~
- 33 ~~Government Code.~~
- 34 ~~(X) An employee who qualified the taxpayer for the enterprise~~
- 35 ~~zone hiring credit under former Section 17053.8 or the program~~
- 36 ~~area hiring credit under former Section 17053.11.~~
- 37 ~~(XI) Immediately preceding the qualified employee’s~~
- 38 ~~commencement of employment with the taxpayer, was a member~~
- 39 ~~of a targeted group, as defined in Section 51(d) of the Internal~~
- 40 ~~Revenue Code, or its successor.~~

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

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

11 ~~(b) “Taxpayer” shall not include employers that provide~~
12 ~~temporary help services, as described in Code 561320 of the North~~
13 ~~American Industry Classification System (NAICS).~~

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

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

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

32 ~~(2) Retain a copy of the certification and provide it to the~~
33 ~~Franchise Tax Board annually.~~

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

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

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

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

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

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

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

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

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

- 1 ~~(i) A termination of employment of a qualified employee who~~
2 ~~voluntarily leaves the employment of the taxpayer.~~
- 3 ~~(ii) A termination of employment of a qualified employee who,~~
4 ~~before the close of the period referred to in paragraph (1), becomes~~
5 ~~disabled and unable to perform the services of that employment,~~
6 ~~unless that disability is removed before the close of that period~~
7 ~~and the taxpayer fails to offer reemployment to that employee.~~
- 8 ~~(iii) A termination of employment of a qualified employee, if~~
9 ~~it is determined that the termination was due to the misconduct (as~~
10 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~
11 ~~the California Code of Regulations) of that employee.~~
- 12 ~~(iv) A termination of employment of a qualified employee due~~
13 ~~to a substantial reduction in the trade or business operations of the~~
14 ~~taxpayer.~~
- 15 ~~(v) A termination of employment of a qualified employee, if~~
16 ~~that employee is replaced by other qualified employees so as to~~
17 ~~create a net increase in both the number of employees and the~~
18 ~~hours of employment.~~
- 19 ~~(B) Subparagraph (B) of paragraph (1) shall not apply to any~~
20 ~~of the following:~~
 - 21 ~~(i) A failure to continue the seasonal employment of a qualified~~
22 ~~employee who voluntarily fails to return to the seasonal~~
23 ~~employment of the taxpayer.~~
 - 24 ~~(ii) A failure to continue the seasonal employment of a qualified~~
25 ~~employee who, before the close of the period referred to in~~
26 ~~subparagraph (B) of paragraph (1), becomes disabled and unable~~
27 ~~to perform the services of that seasonal employment, unless that~~
28 ~~disability is removed before the close of that period and the~~
29 ~~taxpayer fails to offer seasonal employment to that qualified~~
30 ~~employee.~~
 - 31 ~~(iii) A failure to continue the seasonal employment of a qualified~~
32 ~~employee, if it is determined that the failure to continue the~~
33 ~~seasonal employment was due to the misconduct (as defined in~~
34 ~~Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California~~
35 ~~Code of Regulations) of that qualified employee.~~
 - 36 ~~(iv) A failure to continue seasonal employment of a qualified~~
37 ~~employee due to a substantial reduction in the regular seasonal~~
38 ~~trade or business operations of the taxpayer.~~
 - 39 ~~(v) A failure to continue the seasonal employment of a qualified~~
40 ~~employee, if that qualified employee is replaced by other qualified~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (k) ~~The changes made to this section by Chapter 609 by the~~
35 ~~Statutes of 1997 shall apply to taxable years beginning on or after~~
36 ~~January 1, 1997.~~

37 (l) ~~The Franchise Tax Board shall compile the certifications~~
38 ~~submitted pursuant to paragraph (2) of subdivision (c) and shall~~
39 ~~provide as a searchable database on its Internet Web site, for each~~
40 ~~taxable year beginning on or after January 1, 2013, and before~~

1 ~~January 1, 2019, the employer names, amounts of tax credit~~
2 ~~claimed, and number of new jobs created for each taxable year~~
3 ~~pursuant to this section, Sections 17053.34, 17053.46, 17053.47,~~
4 ~~23622.7, 23622.8, 23634, and 23646.~~

5 ~~(m) This section shall remain in effect only until December 1,~~
6 ~~2019, and as of that date is repealed.~~

7 ~~SEC. 6. Section 23622.7 of the Revenue and Taxation Code~~
8 ~~is amended to read:~~

9 ~~23622.7. (a) (1) For taxable years before January 1, 2013,~~
10 ~~there shall be allowed a credit against the “tax” (as defined by~~
11 ~~Section 23036) to a taxpayer who employs a qualified employee~~
12 ~~in an enterprise zone during the taxable year. The credit shall be~~
13 ~~equal to the sum of each of the following:~~

14 ~~(A) Fifty percent of qualified wages in the first year of~~
15 ~~employment.~~

16 ~~(B) Forty percent of qualified wages in the second year of~~
17 ~~employment.~~

18 ~~(C) Thirty percent of qualified wages in the third year of~~
19 ~~employment.~~

20 ~~(D) Twenty percent of qualified wages in the fourth year of~~
21 ~~employment.~~

22 ~~(E) Ten percent of qualified wages in the fifth year of~~
23 ~~employment.~~

24 ~~(2) (A) For each taxable year beginning on or after January 1,~~
25 ~~2013, and before January 1, 2019, there shall be allowed as a credit~~
26 ~~against the “net tax,” as defined in Section 23036, to a taxpayer~~
27 ~~who employs a qualified employee in an enterprise zone during~~
28 ~~the taxable year shall be equal to the sum of each of the following:~~

29 ~~(i) Ten percent of qualified wages in the first year of~~
30 ~~employment.~~

31 ~~(ii) Ten percent of qualified wages in the second year of~~
32 ~~employment.~~

33 ~~(iii) Thirty percent of qualified wages in the third year of~~
34 ~~employment.~~

35 ~~(iv) Forty percent of qualified wages in the fourth year of~~
36 ~~employment.~~

37 ~~(v) Fifty percent of qualified wages in the fifth year of~~
38 ~~employment.~~

39 ~~(B) The credit shall be allowed only with respect to qualified~~
40 ~~wages paid for each net increase in qualified employees. A net~~

1 increase shall be determined by subtracting from the amount
2 determined in clause (i) the amount determined in clause (ii):

3 (i) The total number of qualified employees employed in the
4 state in the preceding taxable year by the taxpayer and by any trade
5 or business acquired by the taxpayer during the preceding taxable
6 year.

7 (ii) The total number of qualified employees employed in the
8 state in the current taxable year by the taxpayer and by any trade
9 or business acquired by the taxpayer during the current taxable
10 year.

11 (C) If a taxpayer relocated to a targeted tax area from within
12 the state during the taxable year for which the credit is claimed,
13 the taxpayer shall be allowed a credit with respect to qualified
14 wages for each net increase in qualified employees only if the
15 taxpayer makes each employee at the previous location or locations
16 a written bona fide offer of employment at the new location.

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

19 (A) (i) Except as provided in clause (ii), that portion of wages
20 paid or incurred by the taxpayer during the taxable year to qualified
21 employees that exceeds 200 percent of the minimum wage and
22 does not exceed 500 percent of the minimum wage.

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

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

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

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

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

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

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

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

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

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

21 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 ~~(aa) Federal Supplemental Security Income benefits.~~

10 ~~(bb) Aid to Families with Dependent Children.~~

11 ~~(cc) CalFresh benefits.~~

12 ~~(dd) State and local general assistance.~~

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

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

21 ~~(X) An employee who qualified the taxpayer for the enterprise~~
22 ~~zone hiring credit under former Section 23622 or the program area~~
23 ~~hiring credit under former Section 23623.~~

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

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

34 ~~(5) (a) "Taxpayer" means a corporation engaged in a trade or~~
35 ~~business within an enterprise zone designated pursuant to Chapter~~
36 ~~12.8 (commencing with Section 7070) of Division 7 of Title 1 of~~
37 ~~the Government Code.~~

38 ~~(b) "Taxpayer" shall not include employers that provide~~
39 ~~temporary help services, as described in Code 561320 of the North~~
40 ~~American Industry Classification System (NAICS).~~

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

4 ~~(e) The taxpayer shall do both of the following:~~

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

19 ~~(2) Retain a copy of the certification and provide it to the~~
20 ~~Franchise Tax Board annually.~~

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

22 ~~(A) All employees of all corporations which are members of~~
23 ~~the same controlled group of corporations shall be treated as~~
24 ~~employed by a single taxpayer.~~

25 ~~(B) The credit, if any, allowable by this section to each member~~
26 ~~shall be determined by reference to its proportionate share of the~~
27 ~~expense of the qualified wages giving rise to the credit, and shall~~
28 ~~be allocated in that manner.~~

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

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

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

38 ~~(2) If an employer acquires the major portion of a trade or~~
39 ~~business of another employer (hereinafter in this paragraph referred~~
40 ~~to as the “predecessor”) or the major portion of a separate unit of~~

1 a trade or business of a predecessor, then, for purposes of applying
2 this section (other than subdivision (c)) for any calendar year
3 ending after that acquisition, the employment relationship between
4 a qualified employee and an employer shall not be treated as
5 terminated if the employee continues to be employed in that trade
6 or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(i) By a transaction to which Section 381(a) of the Internal~~
2 ~~Revenue Code applies, if the qualified employee continues to be~~
3 ~~employed by the acquiring corporation.~~

4 ~~(ii) By reason of a mere change in the form of conducting the~~
5 ~~trade or business of the taxpayer, if the qualified employee~~
6 ~~continues to be employed in that trade or business and the taxpayer~~
7 ~~retains a substantial interest in that trade or business.~~

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

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

13 ~~(1) An organization to which Section 593 of the Internal~~
14 ~~Revenue Code applies.~~

15 ~~(2) A regulated investment company or a real estate investment~~
16 ~~trust subject to taxation under this part.~~

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

21 ~~(h) The credit allowable under this section shall be reduced by~~
22 ~~the credit allowed under Sections 23623.5, 23625, and 23646~~
23 ~~claimed for the same employee. The credit shall also be reduced~~
24 ~~by the federal credit allowed under Section 51 of the Internal~~
25 ~~Revenue Code.~~

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

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

36 ~~(j) (1) The amount of the credit otherwise allowed under this~~
37 ~~section and Section 23612.2, including any credit carryover from~~
38 ~~prior years, that may reduce the “tax” for the taxable year shall~~
39 ~~not exceed the amount of tax which would be imposed on the~~
40 ~~taxpayer’s business income attributable to the enterprise zone~~

1 ~~determined as if that attributable income represented all of the~~
2 ~~income of the taxpayer subject to tax under this part.~~

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

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

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

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

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

32 ~~(k) The changes made to this section by Chapter 609 by the~~
33 ~~Statutes of 1997 shall apply to taxable years on or after January~~
34 ~~1, 1997.~~

35 ~~(l) The Franchise Tax Board shall compile the certifications~~
36 ~~submitted pursuant to paragraph (2) of subdivision (c) and shall~~
37 ~~provide as a searchable database on its Internet Web site, for each~~
38 ~~taxable year beginning on or after January 1, 2013, and before~~
39 ~~January 1, 2019, the employer names, amounts of tax credit~~
40 ~~claimed, and number of new jobs created for each taxable year~~

1 pursuant to this section, Sections 17053.34, 17053.45, 17053.46,
2 17053.47, 23622.8, 23634, and 23646.

3 (m) This section shall remain in effect only until December 1,
4 2019, and as of that date is repealed.

5 SEC. 5. Section 17053.74 of the Revenue and Taxation Code
6 is amended to read:

7 17053.74. (a) (1) There shall be allowed a credit against the
8 “net tax” (as defined in Section 17039) to a taxpayer who employs
9 a qualified employee in an enterprise zone during the taxable year,
10 but only if the qualified employee first commences employment
11 with the taxpayer before January 1, 2014. The credit shall be equal
12 to the sum of each of the following:

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

16 (2)
17 (B) Forty percent of qualified wages in the second year of
18 employment.

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

22 (4)
23 (D) Twenty percent of qualified wages in the fourth year of
24 employment.

25 (5)
26 (E) Ten percent of qualified wages in the fifth year of
27 employment.

28 (2) If a taxpayer relocated to an enterprise zone from within
29 the state during the taxable year for which the credit is claimed,
30 the taxpayer shall be allowed a credit with respect to qualified
31 wages for each net increase in qualified employees only if the
32 taxpayer provides each employee at the previous location or
33 locations a written notice of transfer to the new location with
34 comparable compensation. The taxpayer shall provide
35 self-certification with documentation when submitting voucher
36 applications.

37 (b) For purposes of this section:

38 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

- 1 (iii) Is hired by the taxpayer after the date of original designation
2 of the area in which services were performed as an enterprise zone.
- 3 (iv) Is any of the following:
- 4 (I) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a person
6 eligible for services under the federal ~~Job Training Partnership~~
7 *Workforce Investment Act of 1998* (29 U.S.C. Sec. ~~1501~~ 2801 et
8 seq.), or its successor, who is receiving, or is eligible to receive,
9 subsidized employment, training, or services funded by the federal
10 ~~Job Training Partnership Act~~, *Workforce Investment Act of 1998*
11 (29 U.S.C. Sec. 2801 et seq.), or its successor.
- 12 (II) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a person
14 eligible to be a voluntary or mandatory registrant under the Greater
15 Avenues for Independence Act of 1985 (GAIN) provided for
16 pursuant to Article 3.2 (commencing with Section 11320) of
17 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
18 Code, or its successor.
- 19 (III) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was an
21 economically disadvantaged individual 14 years of age or older.
- 22 (IV) Immediately preceding the qualified employee's
23 commencement of employment with the taxpayer, was a dislocated
24 worker who meets any of the following:
- 25 (aa)
- 26 (ia) Has been terminated or laid off or who has received a notice
27 of termination or layoff from employment, is eligible for or has
28 exhausted entitlement to unemployment insurance benefits, and
29 is unlikely to return to his or her previous industry or occupation.
- 30 (bb)
- 31 (ib) Has been terminated or has received a notice of termination
32 of employment as a result of any permanent closure or any
33 substantial layoff at a plant, facility, or enterprise, including an
34 individual who has not received written notification but whose
35 employer has made a public announcement of the closure or layoff.
- 36 (ee)
- 37 (ic) Is long-term unemployed and has limited opportunities for
38 employment or reemployment in the same or a similar occupation
39 in the area in which the individual resides, including an individual

1 55 years of age or older who may have substantial barriers to
2 employment by reason of age.

3 ~~(dd)~~

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

8 ~~(ee)~~

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

12 ~~(ff)~~

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

16 ~~(gg)~~

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

21 ~~(hh)~~

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

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

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

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

39 ~~(aa)~~

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

- 1 ~~(bb)~~
- 2 *(ib)* Aid to Families with Dependent Children.
- 3 ~~(ee)~~
- 4 *(ic)* CalFresh benefits.
- 5 ~~(dd)~~
- 6 *(id)* State and local general assistance.
- 7 (VIII) Immediately preceding the qualified employee’s
- 8 commencement of employment with the taxpayer, was a member
- 9 of a federally recognized Indian tribe, band, or other group of
- 10 Native American descent.
- 11 (IX) Immediately preceding the qualified employee’s
- 12 commencement of employment with the taxpayer, was a resident
- 13 of a targeted employment area, as defined in Section 7072 of the
- 14 Government Code.
- 15 (X) An employee who qualified the taxpayer for the enterprise
- 16 zone hiring credit under former Section 17053.8 or the program
- 17 area hiring credit under former Section 17053.11.
- 18 (XI) Immediately preceding the qualified employee’s
- 19 commencement of employment with the taxpayer, was a member
- 20 of a targeted group, as defined in Section 51(d) of the Internal
- 21 Revenue Code, or its successor.
- 22 (B) Priority for employment shall be provided to an individual
- 23 who is enrolled in a qualified program under the federal ~~Job~~
- 24 ~~Training Partnership Act~~ *Workforce Investment Act of 1998* (29
- 25 *U.S.C. Sec. 2801 et seq.*), or the Greater Avenues for Independence
- 26 Act of 1985 or who is eligible as a member of a targeted group
- 27 under the Work Opportunity Tax Credit (Section 51 of the Internal
- 28 Revenue Code), or its successor.
- 29 (5) (A) “Taxpayer” means a person or entity engaged in a trade
- 30 or business within an enterprise zone designated pursuant to
- 31 Chapter 12.8 (commencing with Section 7070) of the Government
- 32 Code.
- 33 (B) “Taxpayer” shall not include employers that provide
- 34 *temporary help services, as described in Code 561320 of the North*
- 35 *American Industry Classification System (NAICS).*
- 36 (6) “Seasonal employment” means employment by a taxpayer
- 37 that has regular and predictable substantial reductions in trade or
- 38 business operations.
- 39 (c) The taxpayer shall do ~~both~~ of the following:

1 (1) (A) Obtain from the Employment Development Department,
2 as permitted by federal law, the local county or city ~~Job Training~~
3 ~~Partnership Act~~ *Workforce Investment Act of 1998 (29 U.S.C. Sec.*
4 *2801 et seq.*), administrative entity, the local county GAIN office
5 or social services agency, or the local government administering
6 the enterprise zone, a certification which provides that a qualified
7 employee meets the eligibility requirements specified in clause
8 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
9 Employment Development Department may provide preliminary
10 screening and referral to a certifying agency. The Employment
11 Development Department shall develop a form for this purpose.
12 The Department of Housing and Community Development shall
13 develop regulations governing the issuance of certificates by local
14 governments pursuant to subdivision (a) of Section 7086 of the
15 Government Code.

16 (B) (i) *For any otherwise qualified employee for whom a*
17 *certification as described in subparagraph (A) has not been*
18 *obtained and for whom a request for certification as described in*
19 *subparagraph (A) has not been previously submitted, the request*
20 *certification required under subparagraph (A) with respect to that*
21 *otherwise qualified employee shall be submitted to the certifying*
22 *entity no later than one year after the operative date of the act*
23 *amending this section.*

24 (ii) *Notwithstanding anything to the contrary, a credit shall not*
25 *be allowed under this section with respect to any otherwise*
26 *qualified employee described in clause (i) unless the request for*
27 *certification required under subparagraph (A) was timely submitted*
28 *in accordance with clause (i).*

29 (2) Retain a copy of the certification and provide it ~~upon request~~
30 to the Franchise Tax Board *annually*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (j) (1) The amount of the credit otherwise allowed under this
37 section and Section 17053.70, including any credit carryover from
38 prior years, that may reduce the “net tax” for the taxable year shall
39 not exceed the amount of tax which would be imposed on the
40 taxpayer’s business income attributable to the enterprise zone

1 determined as if that attributable income represented all of the
2 income of the taxpayer subject to tax under this part.

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

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

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

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

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

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

35 (l) *The Franchise Tax Board shall compile the certifications*
36 *submitted pursuant to paragraph (2) of subdivision (c) and shall*
37 *provide as a searchable database on its Internet Web site, for each*
38 *taxable year beginning on or after January 1, 2014, and before*
39 *January 1, 2019, the employer names, amounts of tax credit*
40 *claimed, and number of new jobs created for each taxable year*

1 pursuant to this section, and Sections 17053.34, 17053.46,
2 17053.47, 23622.7, 23622.8, 23634, and 23646.

3 (m) This section shall cease to be operative for taxable years
4 beginning on or after January 1, 2019, and is repealed as of
5 December 1, 2019.

6 SEC. 6. Section 17053.90 is added to the Revenue and Taxation
7 Code, to read:

8 17053.90. (a) (1) For each taxable year beginning on or after
9 January 1, 2014, there shall be allowed to a qualified taxpayer
10 who hires a qualified full-time employee a credit against the “net
11 tax,” as defined in Section 17039, in an amount calculated under
12 this section.

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

17 (b) For purposes of this section:

18 (1) The “tentative credit amount” for a taxable year shall be
19 equal to the sum of the following amounts:

20 (A) For the first year of employment of a qualified employee,
21 10 percent of qualified wages paid during the taxable year.

22 (B) For the second year of employment of a qualified employee,
23 30 percent of qualified wages paid during the taxable year.

24 (C) For the third year of employment of a qualified employee,
25 50 percent of qualified wages paid during the taxable year.

26 (D) For the fourth year of employment of a qualified employee,
27 30 percent of qualified wages paid during the taxable year.

28 (E) For the fifth year of employment of a qualified employee,
29 10 percent of qualified wages paid during the taxable year.

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

39 (3) “Base year” means 2013, or in the case of a qualified
40 taxpayer who first hires a qualified full-time employee in a taxable

1 year beginning on or after January 2015, the taxable year
2 immediately preceding the taxable year in which the qualified
3 employee was hired.

4 (4) “Qualified wages” means both of the following:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to each qualified full-time
7 employee in excess of 200 percent of the minimum wage, but not
8 in excess of 400 percent of the minimum wage.

9 (B) Wages received during the 60-month period beginning with
10 the first day the qualified employee commences employment with
11 the qualified taxpayer.

12 (5) “Minimum wage” means the wage established pursuant to
13 Chapter 1 (commencing with Section 1171) of Part 4 of Division
14 2 of the Labor Code.

15 (6) “Acquired” includes any gift, inheritance, transfer incident
16 to divorce, or any other transfer, whether or not for consideration.

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

19 (i) First commences employment with the qualified taxpayer on
20 or after January 1, 2014.

21 (ii) Satisfies either of the following conditions:

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

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

27 (iii) Is any of the following:

28 (I) Immediately preceding the qualified employee’s
29 commencement of employment with the qualified taxpayer, was a
30 person eligible for services under the federal Workforce Investment
31 Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its successor, who is
32 receiving, or is eligible to receive, subsidized employment, training,
33 or services funded by the federal Workforce Investment Act, or its
34 successor.

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

1 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
2 Institutions Code, or its successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 15 (ia) Federal Supplemental Security Income benefits.
- 16 (ib) Aid to Families with Dependent Children, or its successor.
- 17 (ic) CalFresh benefits.
- 18 (id) State and local general assistance.

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

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

27 (X) Is an employee who qualified the qualified taxpayer for the
28 enterprise zone hiring credit under former Section 17053.8 or the
29 program area hiring credit under former Section 17053.11.

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

34 (B) An individual may only be considered a qualified full-time
35 employee for the period of time commencing with the date the
36 individual is first employed by the qualified taxpayer and ending
37 60 months thereafter.

38 (C) Priority for employment shall be provided to an individual
39 who is enrolled in a qualified program under the federal Workforce
40 Investment Act of 1998 or the Greater Avenues for Independence

1 Act of 1985 or who is eligible as a member of a targeted group
2 under the Work Opportunity Tax Credit (Section 51 of the Internal
3 Revenue Code), or its successor.

4 (8) (A) "Qualified taxpayer" means a person or entity engaged
5 in a trade or business that meets both of the following requirements
6 during the taxable year:

7 (i) Pays or incurs qualified wages.

8 (ii) Has a net increase in full-time employees.

9 (B) In the case of any pass-thru entity, the determination of
10 whether a taxpayer is a qualified taxpayer under this section shall
11 be made at the entity level and any credit under this section or
12 Section 23691 shall be allowed to the pass-thru entity and passed
13 through to the partners and shareholders in accordance with
14 applicable provisions of this part or Part 11 (commencing with
15 Section 23001). For purposes of this subdivision, the term
16 "pass-thru entity" means any partnership or S corporation.

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

20 (10) "Annual full-time equivalent" means all of the following:

21 (A) Either of the following:

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

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

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

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

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

38 (1) (A) (i) The net increase in full-time employees in this state
39 shall be determined on an annual full-time equivalent basis.

1 (ii) The amount determined under clause (i) shall include the
2 fractional amount, if any, of the increase for the taxable year.

3 (B) The net increase in the total number of full-time employees
4 shall be determined by subtracting the amount determined under
5 clause (ii) from the amount determined under clause (i). If the
6 amount determined under clause (ii) is equal to or exceeds the
7 amount determined under clause (i), the amount determined under
8 this subparagraph shall be zero.

9 (i) The total number of full-time employees in this state employed
10 in the current taxable year by the qualified taxpayer and by any
11 trade or business acquired by the qualified taxpayer during the
12 current taxable year.

13 (ii) The total number of full-time employees in this state
14 employed in the base year by the qualified taxpayer and by any
15 trade or business acquired by the qualified taxpayer during the
16 current taxable year.

17 (2) For qualified taxpayers who first commence doing business
18 in this state during the taxable year, the number of full-time
19 employees in this state under clause (ii) of subparagraph (B) of
20 paragraph (1) of this subdivision for the base year shall be zero.

21 (3) For purposes of determining the number of full-time
22 employees of the qualified taxpayer who are employed in this state
23 under this section, only those employees who receive wages that
24 are subject to Division 6 (commencing with Section 13000) of the
25 Unemployment Insurance Code from the qualified taxpayer
26 comprising more than 50 percent of that employee's total wages
27 received from the qualified taxpayer for the taxable year shall be
28 included.

29 (d) (1) Any qualified wages taken into account under this
30 section in computing this credit shall not be taken into account in
31 computing any other credit otherwise allowable under this part
32 or Part 11. (commencing with Section 23001)

33 (2) Notwithstanding anything to the contrary, any employee
34 whose wages, in whole or in part, are eligible to be taken into
35 account in computing a credit under Section 17053.74 or 23622.7
36 shall not be treated as a qualified full-time employee under this
37 section.

38 (e) (1) The qualified taxpayer shall do both of the following:

39 (A) Obtain from the Employment Development Department, as
40 permitted by federal law, the local county or city Workforce

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

12 *(B) Retain a copy of the certification and provide it to the*
13 *Franchise Tax Board annually.*

14 *(2) The credit allowed by this section shall be claimed on a*
15 *timely filed original return of the qualified taxpayer.*

16 *(f) (1) For purposes of this section:*

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

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

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

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

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

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

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

4 (h) (1) The credit allowable under this section shall be reduced
5 by the credit allowed under Sections 17053.10, 17053.17, and
6 17053.46 claimed for the same employee. The credit shall also be
7 reduced by the federal credit allowed under Section 51 of the
8 Internal Revenue Code, as applicable for federal purposes.

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

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

17 (j) This section shall cease to be operative for taxable years
18 beginning on or after January 1, ____, and shall be repealed on
19 December 1, ____.

20 SEC. 7. Section 23622.7 of the Revenue and Taxation Code is
21 amended to read:

22 23622.7. (a) (1) There shall be allowed a credit against the
23 “tax” (as defined by Section 23036) to a taxpayer ~~who~~ that employs
24 a qualified employee in an enterprise zone during the taxable year,
25 but only if the qualified employee first commences employment
26 with the taxpayer before January 1, 2014. The credit shall be equal
27 to the sum of each of the following:

28 ~~(1)~~

29 (A) Fifty percent of qualified wages in the first year of
30 employment.

31 ~~(2)~~

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

34 ~~(3)~~

35 (C) Thirty percent of qualified wages in the third year of
36 employment.

37 ~~(4)~~

38 (D) Twenty percent of qualified wages in the fourth year of
39 employment.

40 ~~(5)~~

1 (E) Ten percent of qualified wages in the fifth year of
2 employment.

3 (2) *If a taxpayer relocated to an enterprise zone from within*
4 *the state during the taxable year for which the credit is claimed,*
5 *the taxpayer shall be allowed a credit with respect to qualified*
6 *wages for each net increase in qualified employees only if the*
7 *taxpayer provides each employee at the previous location or*
8 *locations a written notice of transfer to the new location with*
9 *comparable compensation. The taxpayer shall provide*
10 *self-certification with documentation when submitting voucher*
11 *applications.*

12 (b) For purposes of this section:

13 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

16 (iv) Is any of the following:

17 (I) Immediately preceding the qualified employee’s
18 commencement of employment with the taxpayer, was a person
19 eligible for services under the federal ~~Job Training Partnership~~
20 *Workforce Investment Act of 1998* (29 U.S.C. Sec. ~~1501~~ 2801 et
21 seq.), or its successor, who is receiving, or is eligible to receive,
22 subsidized employment, training, or services funded by the federal
23 ~~Job Training Partnership Act~~, *Workforce Investment Act of 1998*
24 (29 U.S.C. Sec. 2801 et seq.), or its successor.

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

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

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

38 (aa)

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

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

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

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

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

11 ~~(aa)~~

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

13 ~~(bb)~~

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

15 ~~(cc)~~

16 *(ic)* CalFresh benefits.

17 ~~(dd)~~

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

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

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

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

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

34 (B) Priority for employment shall be provided to an individual
35 who is enrolled in a qualified program under the federal ~~Job~~
36 ~~Training Partnership Act~~ *Workforce Investment Act of 1998* (29
37 *U.S.C. Sec. 2801 et seq.*), or the Greater Avenues for Independence
38 Act of 1985 or who is eligible as a member of a targeted group
39 under the Work Opportunity Tax Credit (Section 51 of the Internal
40 Revenue Code), or its successor.

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

5 (B) “Taxpayer” shall not include employers that provide
6 temporary help services, as described in Code 561320 of the North
7 American Industry Classification System (NAICS).

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

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

12 (1) (A) Obtain from the Employment Development Department,
13 as permitted by federal law, the local county or city ~~Job Training~~
14 ~~Partnership Act Workforce Investment Act of 1998 (29 U.S.C. Sec.~~
15 ~~2801 et seq.)~~ administrative entity, the local county GAIN office
16 or social services agency, or the local government administering
17 the enterprise zone, a certification that provides that a qualified
18 employee meets the eligibility requirements specified in clause
19 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
20 Employment Development Department may provide preliminary
21 screening and referral to a certifying agency. The Employment
22 Development Department shall develop a form for this purpose.
23 The Department of Housing and Community Development shall
24 develop regulations governing the issuance of certificates by local
25 governments pursuant to subdivision (a) of Section 7086 of the
26 Government Code.

27 (B) (i) *For any otherwise qualified employee for whom a*
28 *certification as described in subparagraph (A) has not been*
29 *obtained and for whom a request for certification described in*
30 *subparagraph (A) has not been previously submitted, the request*
31 *certification required under subparagraph (A) with respect to that*
32 *otherwise qualified employee shall be submitted to the certifying*
33 *entity no later than one year after the operative date of the act*
34 *amending this section.*

35 (ii) *Notwithstanding anything to the contrary, a credit shall not*
36 *be allowed under this section with respect to any otherwise*
37 *qualified employee described in clause (i) unless the request for*
38 *certification required under subparagraph (A) was timely submitted*
39 *in accordance with clause (i).*

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

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

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

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

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

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

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

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

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

1 (B) If the seasonal employment of any qualified employee, with
2 respect to whom qualified wages are taken into account under
3 subdivision (a) is not continued by the taxpayer for a period of
4 270 days of employment during the 60-month period beginning
5 with the day the qualified employee commences seasonal
6 employment with the taxpayer, the tax imposed by this part, for
7 the taxable year that includes the 60th month following the month
8 in which the qualified employee commences seasonal employment
9 with the taxpayer, shall be increased by an amount equal to the
10 credit allowed under subdivision (a) for that taxable year and all
11 prior taxable years attributable to qualified wages paid or incurred
12 with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (h) The credit allowable under this section shall be reduced by
2 the credit allowed under Sections 23623.5, 23625, and 23646
3 claimed for the same employee. The credit shall also be reduced
4 by the federal credit allowed under Section 51 of the Internal
5 Revenue Code.

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

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

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

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

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

37 (A) The property factor is a fraction, the numerator of which is
38 the average value of the taxpayer’s real and tangible personal
39 property owned or rented and used in the enterprise zone during
40 the income year, and the denominator of which is the average value

1 of all the taxpayer’s real and tangible personal property owned or
2 rented and used in this state during the income year.

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

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

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

14 (l) *The Franchise Tax Board shall compile the certifications*
15 *submitted pursuant to paragraph (2) of subdivision (c) and shall*
16 *provide as a searchable database on its Internet Web site, for each*
17 *taxable year beginning on or after January 1, 2014, and before*
18 *January 1, 2019, the employer names, amounts of tax credit*
19 *claimed, and number of new jobs created for each taxable year*
20 *pursuant to this section, and Sections 17053.34, 17053.46,*
21 *17053.47, 23622.7, 23622.8, 23634, and 23646.*

22 (m) *This section shall cease to be operative for taxable years*
23 *beginning on or after January 1, 2019, and is repealed as of*
24 *December 1, 2019.*

25 ~~SEC. 7.~~

26 *SEC. 8.* Section 23622.8 of the Revenue and Taxation Code is
27 amended to read:

28 23622.8. (a) (1) For each taxable year beginning on or after
29 January 1, 1998, and before January 1, 2013, there shall be allowed
30 a credit against the “tax” (as defined in Section 23036) to a
31 qualified taxpayer for hiring a qualified disadvantaged individual
32 during the taxable year for employment in the manufacturing
33 enhancement area. The credit shall be equal to the sum of each of
34 the following:

35 (A) Fifty percent of the qualified wages in the first year of
36 employment.

37 (B) Forty percent of the qualified wages in the second year of
38 employment.

39 (C) Thirty percent of the qualified wages in the third year of
40 employment.

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

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

5 (2) (A) For each taxable year beginning on or after January 1,
6 2013, and before January 1, 2019, there shall be allowed as a credit
7 against the “net tax,” as defined in Section 23036, to a qualified
8 taxpayer for hiring a qualified disadvantaged individual during the
9 taxable year for employment in the manufacturing enhancement
10 area. The credit shall be equal to the sum of each of the following:

11 (i) Ten percent of qualified wages in the first year of
12 employment.

13 (ii) Ten percent of qualified wages in the second year of
14 employment.

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

17 (iv) Forty percent of qualified wages in the fourth year of
18 employment.

19 (v) Fifty percent of qualified wages in the fifth year of
20 employment.

21 (B) The credit shall be allowed only with respect to qualified
22 wages paid for each net increase in qualified employees. A net
23 increase shall be determined by subtracting from the amount
24 determined in clause (i) the amount determined in clause (ii). For
25 purposes of this subparagraph, “qualified employee” means
26 qualified disadvantaged individual.

27 (i) The total number of qualified employees employed in the
28 state in the preceding taxable year by the qualified taxpayer and
29 by any trade or business acquired by the qualified taxpayer during
30 the preceding taxable year.

31 (ii) The total number of qualified employees employed in the
32 state in the current taxable year by the qualified taxpayer and by
33 any trade or business acquired by the qualified taxpayer during
34 the current taxable year.

35 (C) If a qualified taxpayer relocated to a ~~targeted~~ tax
36 *manufacturing enhancement* area from within the state during the
37 taxable year for which the credit is claimed, the qualified taxpayer
38 shall be allowed a credit with respect to qualified wages for each
39 net increase in qualified employees only if the qualified taxpayer
40 ~~makes~~ *provides* each employee at the previous location or locations

1 a written ~~bona fide offer of employment at the new location~~ *notice*
2 *of transfer to the new location with comparable compensation.*
3 *The qualified taxpayer shall provide self-certification with*
4 *documentation when submitting a voucher application.*

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified
8 taxpayer during the taxable year to qualified disadvantaged
9 individuals that exceeds 200 percent of the minimum wage and
10 does not exceed 500 percent of the minimum wage.

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

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

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

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

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

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

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

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

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

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

16 (C) Who is any of the following immediately preceding the
17 individual’s commencement of employment with the qualified
18 taxpayer:

19 (i) An individual who has been determined eligible for services
20 under the federal Job Training Partnership Act (29 U.S.C. Sec.
21 1501 et seq.) or its successor.

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

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

31 (6) (A) “Qualified taxpayer” means any corporation engaged
32 in a trade or business within a manufacturing enhancement area
33 designated pursuant to Section 7073.8 of the Government Code
34 and that meets all of the following requirements:

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

1 (ii) At least 50 percent of the qualified taxpayer’s workforce
2 hired after the designation of the manufacturing enhancement area
3 is composed of individuals who, at the time of hire, are residents
4 of the county in which the manufacturing enhancement area is
5 located.

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

8 (B) “Qualified taxpayer” shall not include employers that
9 provide temporary help services, as described in Code 561320 of
10 the North American Industry Classification System (NAICS).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (C) For purposes of paragraph (1), the employment relationship
33 between the qualified taxpayer and a qualified disadvantaged
34 individual shall not be treated as terminated by either of the
35 following:

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

39 (ii) By reason of a mere change in the form of conducting the
40 trade or business of the qualified taxpayer, if the qualified

1 disadvantaged individual continues to be employed in that trade
2 or business and the qualified taxpayer retains a substantial interest
3 in that trade or business.

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

7 (e) The credit shall be reduced by the credit allowed under
8 Section 23621. The credit shall also be reduced by the federal
9 credit allowed under Section 51 of the Internal Revenue Code.

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

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

20 (g) (1) The amount of credit otherwise allowed under this
21 section, including prior year credit carryovers, that may reduce
22 the “tax” for the taxable year shall not exceed the amount of tax
23 that would be imposed on the qualified taxpayer’s business income
24 attributed to a manufacturing enhancement area determined as if
25 that attributed income represented all of the net income of the
26 qualified taxpayer subject to tax under this part.

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

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

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

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

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

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

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

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

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

37 (j) (1) ~~For each taxable year beginning on or after January 1,~~
38 ~~2013, and before the 2014 calendar year, and each calendar year~~
39 ~~thereafter, until January 1, 2019,~~ the total aggregate amount of
40 credits allowed pursuant to this section shall not exceed the total

1 aggregate amount of credits claimed pursuant to this section in the
2 taxable year beginning on or after January 1, 2012, and before
3 January 1, 2013 2013 calendar year, as determined by the
4 Franchise Tax Board.

5 (2) Upon receipt of a timely filed original return, the Franchise
6 Tax Board shall allocate the credit to the qualified taxpayer on a
7 first-come-first-served basis.

8 (k) (1) The Franchise Tax Board shall compile the certifications
9 submitted pursuant to paragraph (2) of subdivision (i) and shall
10 provide as a searchable database on its Internet Web site, for each
11 taxable year beginning on or after January 1, 2013, 2014, and
12 before January 1, 2019, the employer names, amounts of tax credit
13 claimed, and number of new jobs created for each taxable year
14 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
15 17053.74, 23622.7, 23634, and 23646.

16 (2) The Franchise Tax Board may prescribe rules, guidelines,
17 or procedures necessary or appropriate to carry out the purposes
18 of this section, including any guidelines regarding the allocation
19 of the credit allowed under this section.

20 (l) This section shall remain in effect only until December 1,
21 2019, and as of that date is repealed.

22 ~~SEC. 8.~~

23 *SEC. 9.* Section 23634 of the Revenue and Taxation Code is
24 amended to read:

25 23634. (a) (1) For each taxable year beginning on or after
26 January 1, 1998, and before January 1, 2013, there shall be allowed
27 a credit against the “tax” (as defined by Section 23036) to a
28 qualified taxpayer who employs a qualified employee in a targeted
29 tax area during the taxable year. The credit shall be equal to the
30 sum of each of the following:

31 (A) Fifty percent of qualified wages in the first year of
32 employment.

33 (B) Forty percent of qualified wages in the second year of
34 employment.

35 (C) Thirty percent of qualified wages in the third year of
36 employment.

37 (D) Twenty percent of qualified wages in the fourth year of
38 employment.

39 (E) Ten percent of qualified wages in the fifth year of
40 employment.

1 (2) (A) For each taxable year beginning on or after January 1,
2 2013, and before January 1, 2019, there shall be allowed a credit
3 against the “net tax,” as defined in Section 23036, to a qualified
4 taxpayer who employs a qualified employee in a targeted tax area
5 during the taxable year. The credit shall be equal to the sum of
6 each of the following:

7 (i) Ten percent of qualified wages in the first year of
8 employment.

9 (ii) Ten percent of qualified wages in the second year of
10 employment.

11 (iii) Thirty percent of qualified wages in the third year of
12 employment.

13 (iv) Forty percent of qualified wages in the fourth year of
14 employment.

15 (v) Fifty percent of qualified wages in the fifth year of
16 employment.

17 (B) The credit shall be allowed only with respect to qualified
18 wages paid for each net increase in qualified employees. A net
19 increase shall be determined by subtracting from the amount
20 determined in clause (i) the amount determined in clause (ii).

21 (i) The total number of qualified employees employed in the
22 state in the preceding taxable year by the qualified taxpayer and
23 by any trade or business acquired by the qualified taxpayer during
24 the preceding taxable year.

25 (ii) The total number of qualified employees employed in the
26 state in the current taxable year by the qualified taxpayer and by
27 any trade or business acquired by the qualified taxpayer during
28 the current taxable year.

29 (C) If a qualified taxpayer relocated to a targeted tax area from
30 within the state during the taxable year for which the credit is
31 claimed, the qualified taxpayer shall be allowed a credit with
32 respect to qualified wages for each net increase in qualified
33 employees only if the qualified taxpayer ~~makes~~ *provides* each
34 employee at the previous location or locations a written ~~bona fide~~
35 ~~offer of employment at the new location~~ *notice of transfer to the*
36 *new location with comparable compensation. The qualified*
37 *taxpayer shall provide self-certification with documentation when*
38 *submitting a voucher application.*

39 (b) For purposes of this section:

40 (1) “Qualified wages” means:

1 (A) That portion of wages paid or incurred by the qualified
2 taxpayer during the taxable year to qualified employees that
3 exceeds 200 percent of the minimum wage and does not exceed
4 500 percent of the minimum wage.

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

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

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

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

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

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

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

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

38 (iv) Is any of the following:

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

1 a person eligible for services under the federal Job Training
2 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
3 who is receiving, or is eligible to receive, subsidized employment,
4 training, or services funded by the federal ~~Job Training Partnership~~
5 ~~Act~~, *Workforce Investment Act of 1998* (29 U.S.C. Sec. 2801 et
6 *seq.*), or its successor.

7 (II) Immediately preceding the qualified employee's
8 commencement of employment with the qualified taxpayer, was
9 a person eligible to be a voluntary or mandatory registrant under
10 the Greater Avenues for Independence Act of 1985 (GAIN)
11 provided for pursuant to Article 3.2 (commencing with Section
12 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
13 Institutions Code, or its successor.

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

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

20 (aa)

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

25 (bb)

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

31 (cc)

32 (ic) Is long-term unemployed and has limited opportunities for
33 employment or reemployment in the same or a similar occupation
34 in the area in which the individual resides, including an individual
35 55 years of age or older who may have substantial barriers to
36 employment by reason of age.

37 (dd)

38 (id) Was self-employed (including farmers and ranchers) and
39 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
2 disasters.

3 ~~(ee)~~

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

7 ~~(ff)~~

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

11 ~~(gg)~~

12 *(ig)* Is a seasonal or migrant worker who experiences chronic
13 seasonal unemployment and underemployment in the agriculture
14 industry, aggravated by continual advancements in technology and
15 mechanization.

16 ~~(hh)~~

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

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

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

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

34 ~~(aa)~~

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

36 ~~(bb)~~

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

38 ~~(ee)~~

39 *(ic)* CalFresh benefits.

40 ~~(dd)~~

1 (id) State and local general assistance.

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

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

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

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

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

21 (i) Is engaged in a trade or business within a targeted tax area
22 designated pursuant to Chapter 12.93 (commencing with Section
23 7097) of Division 7 of Title 1 of the Government Code.

24 (ii) Is engaged in those lines of business described in Codes
25 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
26 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
27 of the Standard Industrial Classification (SIC) Manual published
28 by the United States Office of Management and Budget, 1987
29 edition.

30 (B) In the case of any passthrough entity, the determination of
31 whether a taxpayer is a qualified taxpayer under this section shall
32 be made at the entity level and any credit under this section or
33 Section 17053.34 shall be allowed to the passthrough entity and
34 passed through to the partners or shareholders in accordance with
35 applicable provisions of this part or Part 10 (commencing with
36 Section 17001). For purposes of this subparagraph, the term
37 "passthrough entity" means any partnership or "S" corporation.

38 (C) "Qualified taxpayer" shall not include employers that
39 provide temporary help services, as described in Code 561320 of
40 the North American Industry Classification System (NAICS).

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

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

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

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

21 (2) Retain a copy of the certification and provide it to the
22 Franchise Tax Board annually.

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

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

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

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

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

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

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

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

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

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

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

38 (ii) A termination of employment of a qualified employee who,
39 before the close of the period referred to in subparagraph (A) of
40 paragraph (1), becomes disabled and unable to perform the services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) Attributable income shall be that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 targeted tax area. For that purpose, the taxpayer’s business income

1 attributable to sources in this state first shall be determined in
2 accordance with Chapter 17 (commencing with Section 25101).
3 That business income shall be further apportioned to the targeted
4 tax area in accordance with Article 2 (commencing with Section
5 25120) of Chapter 17, modified for purposes of this section in
6 accordance with paragraph (3).

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

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

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

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

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

32 (k) (1) ~~For each taxable year beginning on or after January 1,~~
33 ~~2013, and before the 2014 calendar year, and each calendar year~~
34 ~~thereafter, until January 1, 2019, the total aggregate amount of~~
35 ~~credits allowed pursuant to this section shall not exceed the total~~
36 ~~aggregate amount of credits claimed pursuant to this section in the~~
37 ~~taxable year beginning on or after January 1, 2012, and before~~
38 ~~January 1, 2013 2013 calendar year, as determined by the~~
39 Franchise Tax Board.

1 (2) Upon receipt of a timely filed original return, the Franchise
2 Tax Board shall allocate the credit to the qualified taxpayer on a
3 first-come-first-served basis.

4 (l) (1) The Franchise Tax Board shall compile the certifications
5 submitted pursuant to paragraph (2) of subdivision (d) and shall
6 provide as a searchable database on its Internet Web site, for each
7 taxable year beginning on or after January 1, ~~2013~~, 2014, and
8 before January 1, 2019, the employer names, amounts of tax credit
9 claimed, and number of new jobs created for each taxable year
10 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
11 17053.74, 23622.7, 23622.8, and 23646.

12 (2) The Franchise Tax Board may prescribe rules, guidelines,
13 or procedures necessary or appropriate to carry out the purposes
14 of this section, including any guidelines regarding the allocation
15 of the credit allowed under this section.

16 (m) This section shall remain in effect only until December 1,
17 2019, and as of that date is repealed.

18 ~~SEC. 9.~~

19 *SEC. 10.* Section 23646 of the Revenue and Taxation Code is
20 amended to read:

21 23646. (a) (1) For each taxable year beginning on or after
22 January 1, 1995, and before January 1, 2013, there shall be allowed
23 as a credit against the “tax” (as defined in Section 23036) to a
24 qualified taxpayer for hiring a qualified disadvantaged individual
25 or a qualified displaced employee during the taxable year for
26 employment in the LAMBRA. The credit shall be equal to the sum
27 of each of the following:

28 (A) Fifty percent of the qualified wages in the first year of
29 employment.

30 (B) Forty percent of the qualified wages in the second year of
31 employment.

32 (C) Thirty percent of the qualified wages in the third year of
33 employment.

34 (D) Twenty percent of the qualified wages in the fourth year of
35 employment.

36 (E) Ten percent of the qualified wages in the fifth year of
37 employment.

38 (2) (A) For each taxable year beginning on or after January 1,
39 2013, and before January 1, 2019, there shall be allowed as a credit
40 against the “net tax,” as defined in Section 17039, to a qualified

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

5 (i) Ten percent of qualified wages in the first year of
6 employment.

7 (ii) Ten percent of qualified wages in the second year of
8 employment.

9 (iii) Thirty percent of qualified wages in the third year of
10 employment.

11 (iv) Forty percent of qualified wages in the fourth year of
12 employment.

13 (v) Fifty percent of qualified wages in the fifth year of
14 employment.

15 (B) The credit shall be allowed only with respect to qualified
16 wages paid for each net increase in qualified employees. A net
17 increase shall be determined by subtracting from the amount
18 determined in clause (i) the amount determined in clause (ii). For
19 purposes of this subparagraph, “qualified employees” means
20 qualified disadvantaged individuals and qualified displaced
21 employees.

22 (i) The total number of qualified employees employed in the
23 state in the preceding taxable year by the qualified taxpayer and
24 by any trade or business acquired by the qualified taxpayer during
25 the preceding taxable year.

26 (ii) The total number of qualified employees employed in the
27 state in the current taxable year by the qualified taxpayer and by
28 any trade or business acquired by the qualified taxpayer during
29 the current taxable year.

30 (C) If a qualified taxpayer relocated to a ~~targeted tax area~~
31 LAMBRA from within the state during the taxable year for which
32 the credit is claimed, the qualified taxpayer shall be allowed a
33 credit with respect to qualified wages for each net increase in
34 qualified employees only if the qualified taxpayer ~~makes~~ *provides*
35 each employee at the previous location or locations a written ~~bona~~
36 ~~fade offer of employment at the new location~~ *notice of transfer to*
37 *the new location with comparable compensation. The qualified*
38 *taxpayer shall provide self-certification with documentation when*
39 *submitting a voucher application.*

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that exceeds 200 percent of the
5 minimum wage and does not exceed 500 percent of the minimum
6 wage.

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

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

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

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

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

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

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

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

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

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

6 (i) An individual who has been determined eligible for services
7 under the federal ~~Job Training Partnership~~ *Workforce Investment*
8 *Act of 1998* (29 U.S.C. Sec. ~~1501~~ 2801 et seq.), or its successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) CalFresh benefits.

18 (IV) State and local general assistance.

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

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

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

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

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

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

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

14 (D) “Qualified taxpayer” shall not include employers that
15 provide temporary help services, as described in Code 561320 of
16 the North American Industry Classification System (NAICS).

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

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

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

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

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

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

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

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

36 (1) Obtain from the Employment Development Department, as
37 permitted by federal law, the administrative entity of the local
38 county or city for the federal ~~Job Training Partnership Act,~~
39 *Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.)*,
40 or its successor, the local county GAIN office or social services

1 agency, or the local government administering the LAMBRA, a
2 certification that provides that a qualified disadvantaged individual
3 or qualified displaced employee meets the eligibility requirements
4 specified in subparagraph (C) of paragraph (4) of subdivision (b)
5 or subparagraph (A) of paragraph (6) of subdivision (b). The
6 Employment Development Department may provide preliminary
7 screening and referral to a certifying agency. The Department of
8 Housing and Community Development shall develop regulations
9 governing the issuance of certificates pursuant to Section 7114.2
10 of the Government Code and shall develop forms for this purpose.

11 (2) Retain a copy of the certification and provide it to the
12 Franchise Tax Board annually.

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

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

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

20 (2) For purposes of this subdivision, “controlled group of
21 corporations” has the meaning given to that term by Section
22 1563(a) of the Internal Revenue Code, except that both of the
23 following apply:

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

27 (B) The determination shall be made without regard to Section
28 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
29 Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (ii) A mere change in the form of conducting the trade or
38 business of the taxpayer, if the employee continues to be employed
39 in that trade or business and the taxpayer retains a substantial
40 interest in that trade or business.

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

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

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

14 (g) The credit shall be reduced by the credit allowed under
15 Section 23621. The credit shall also be reduced by the federal
16 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

27 (k) (1) ~~For each taxable year beginning on or after January 1,~~
28 ~~2013, and before the 2014 calendar year, and each calendar year~~
29 ~~thereafter, until January 1, 2019,~~ the total aggregate amount of
30 credits allowed pursuant to this section shall not exceed the total
31 aggregate amount of credits claimed pursuant to this section in the
32 ~~taxable year beginning on or after January 1, 2012, and before~~
33 ~~January 1, 2013, 2013 calendar year,~~ as determined by the
34 Franchise Tax Board.

35 (2) Upon receipt of a timely filed original return, the Franchise
36 Tax Board shall allocate the credit to the qualified taxpayer on a
37 first-come-first-served basis.

38 (l) (1) The Franchise Tax Board shall compile the certifications
39 submitted pursuant to paragraph (2) of subdivision (c) and shall
40 provide as a searchable database on its Internet Web site, for each

1 taxable year beginning on or after January 1, ~~2013~~, 2014, and
2 before January 1, 2019, the employer names, amounts of tax credit
3 claimed, and number of new jobs created for each taxable year
4 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
5 17053.74, 23622.7, 23622.8, and 23634.

6 (2) The Franchise Tax Board may prescribe rules, guidelines,
7 or procedures necessary or appropriate to carry out the purposes
8 of this section, including any guidelines regarding the allocation
9 of the credit allowed under this section.

10 (m) This section shall remain in effect only until December 1,
11 2019, and as of that date is repealed.

12 *SEC. 11. Section 23690 is added to the Revenue and Taxation*
13 *Code, to read:*

14 23690. (a) (1) *For each taxable year beginning on or after*
15 *January 1, 2014, there shall be allowed to a qualified taxpayer*
16 *that hires a qualified full-time employee a credit against the “tax,”*
17 *as defined by Section 23036, in an amount calculated under this*
18 *section.*

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

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

24 (1) *The “tentative credit amount” for a taxable year shall be*
25 *equal to the sum of the following amounts:*

26 (A) *For the first year of employment of a qualified employee,*
27 *10 percent of qualified wages paid during the taxable year.*

28 (B) *For the second year of employment of a qualified employee,*
29 *30 percent of qualified wages paid during the taxable year.*

30 (C) *For the third year of employment of a qualified employee,*
31 *50 percent of qualified wages paid during the taxable year.*

32 (D) *For the fourth year of employment of a qualified employee,*
33 *30 percent of qualified wages paid during the taxable year.*

34 (E) *For the fifth year of employment of a qualified employee,*
35 *10 percent of qualified wages paid during the taxable year.*

36 (2) *The “applicable percentage” for a taxable year is equal to*
37 *a fraction, the numerator of which is the net increase in the total*
38 *number of full-time employees who are employed in this state*
39 *during the taxable year, determined on an annual full-time*
40 *equivalent basis, as compared with the total number of full-time*

1 *employees employed in this state during the base year, determined*
2 *on the same basis, and the denominator of which is the total*
3 *number of qualified full-time employees employed in this state*
4 *during the taxable year. The applicable percentage shall not exceed*
5 *100 percent.*

6 (3) *“Base year” means 2013, or in the case of a qualified*
7 *taxpayer that first hires a qualified full-time employee in a taxable*
8 *year beginning on or after January 1, 2015, the taxable year*
9 *immediately preceding the taxable year in which the qualified*
10 *employee was hired.*

11 (4) *“Qualified wages” means both of the following:*

12 (A) *That portion of wages paid or incurred during the taxable*
13 *year to each qualified full-time employee in excess of 200 percent*
14 *of the minimum wage, but not in excess of 400 percent of the*
15 *minimum wage.*

16 (B) *Wages received during the 60-month period beginning with*
17 *the first day the qualified employee commences employment with*
18 *the qualified taxpayer.*

19 (5) *“Minimum wage” means the wage established pursuant to*
20 *Chapter 1 (commencing with Section 1171) of Part 4 of Division*
21 *2 of the Labor Code.*

22 (6) *“Acquired” includes any gift, inheritance, transfer incident*
23 *to divorce, or any other transfer, whether or not for consideration.*

24 (7) (A) *“Qualified full-time employee” means an individual*
25 *who meets all of the following requirements:*

26 (i) *First commences employment with the qualified taxpayer on*
27 *or after January 1, 2014.*

28 (ii) *Satisfies either of the following conditions:*

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

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

34 (iii) *Is any of the following:*

35 (I) *Immediately preceding the qualified employee’s*
36 *commencement of employment with the qualified taxpayer, was a*
37 *person eligible for services under the federal Workforce Investment*
38 *Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its successor, who is*
39 *receiving, or is eligible to receive, subsidized employment, training,*

1 *or services funded by the federal Workforce Investment Act, or its*
2 *successor.*

3 *(II) Immediately preceding the qualified employee's*
4 *commencement of employment with the qualified taxpayer, was a*
5 *person eligible to be a voluntary or mandatory registrant under*
6 *the Greater Avenues for Independence Act of 1985 (GAIN)*
7 *provided for pursuant to Article 3.2 (commencing with Section*
8 *11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and*
9 *Institutions Code, or its successor.*

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

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

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

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

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

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

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

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

1 (ig) *Is a seasonal or migrant worker who experiences chronic*
2 *seasonal unemployment and underemployment in the agriculture*
3 *industry, aggravated by continual advancements in technology*
4 *and mechanization.*

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

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

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

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

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

23 (ib) *Aid to Families with Dependent Children, or its successor.*

24 (ic) *CalFresh benefits.*

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

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

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

34 (X) *Is an employee who qualified the qualified taxpayer for the*
35 *enterprise zone hiring credit under former Section 17053.8 or the*
36 *program area hiring credit under former Section 17053.11.*

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

1 (B) An individual may only be considered a qualified full-time
2 employee for the period of time commencing with the date the
3 individual is first employed by the qualified taxpayer and ending
4 60 months thereafter.

5 (C) Priority for employment shall be provided to an individual
6 who is enrolled in a qualified program under the federal Workforce
7 Investment Act of 1998 or the Greater Avenues for Independence
8 Act of 1985 or who is eligible as a member of a targeted group
9 under the Work Opportunity Tax Credit (Section 51 of the Internal
10 Revenue Code), or its successor.

11 (8) (A) "Qualified taxpayer" means a person or entity engaged
12 in a trade or business that meets both of the following requirements
13 during the taxable year:

14 (i) Pays or incurs qualified wages.

15 (ii) Has a net increase in full-time employees.

16 (B) In the case of any pass-thru entity, the determination of
17 whether a taxpayer is a qualified taxpayer under this section shall
18 be made at the entity level and any credit under this section or
19 Section 17053.90 shall be allowed to the pass-thru entity and
20 passed through to the partners and shareholders in accordance
21 with applicable provisions of this part or Part 10 (commencing
22 with Section 17001). For purposes of this subdivision, the term
23 "pass-thru entity" means any partnership or S corporation.

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

27 (10) "Annual full-time equivalent" means all of the following:

28 (A) Either of the following:

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

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

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

1 (C) In determining whether the qualified taxpayer has first
2 commenced doing business in this state during the taxable year,
3 subdivision (f) of Section 24416.20, without application of
4 paragraph (7) of that subdivision, shall apply.

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

7 (1) (A) (i) The net increase in full-time employees shall be
8 determined on an annual full-time equivalent basis.

9 (ii) The amount determined under clause (i) shall include the
10 fractional amount, if any, of the increase for the taxable year.

11 (B) The net increase in the total number of full-time employees
12 shall be determined by subtracting the amount determined under
13 clause (ii) from the amount determined under clause (i). If the
14 amount determined under clause (ii) is equal to or exceeds the
15 amount determined under clause (i), the amount determined under
16 this subparagraph shall be zero.

17 (i) The total number of full-time employees employed in the
18 current taxable year by the qualified taxpayer and by any trade
19 or business acquired by the qualified taxpayer during the current
20 taxable year.

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

24 (2) For qualified taxpayers that first commence doing business
25 in this state during the taxable year, the number of full-time
26 employees under clause (ii) of subparagraph (B) of paragraph (1)
27 of this subdivision for the base year shall be zero.

28 (3) For purposes of determining the number of full-time
29 employees of the qualified taxpayer who are employed in this state
30 under this section, only those employees who receive wages that
31 are subject to Division 6 (commencing with Section 13000) of the
32 Unemployment Insurance Code from the qualified taxpayer
33 comprising more than 50 percent of that employee’s total wages
34 received from the qualified taxpayer for the taxable year shall be
35 included.

36 (d) (1) Any qualified wages taken into account under this
37 section in computing this credit shall not be taken into account in
38 computing any other credit otherwise allowable under this part
39 or Part 10 (commencing with Section 17001).

1 (2) Notwithstanding anything to the contrary, any employee
2 whose wages, in whole or in part, are eligible to be taken into
3 account in computing a credit under Section 17053.74 or 23622.7
4 shall not be treated as a qualified full-time employee under this
5 section.

6 (e) (1) The qualified taxpayer shall do both of the following:

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

20 (B) Retain a copy of the certification and provide it to the
21 Franchise Tax Board annually.

22 (2) The credit allowed by this section must be claimed on a
23 timely filed original return of the qualified taxpayer.

24 (f) (1) For purposes of this section:

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

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

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

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

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

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

13 (g) *Rules similar to the rules provided in Section 46(e) and (h)*
14 *of the Internal Revenue Code shall apply to both of the following:*

15 (1) *An organization to which Section 593 of the Internal Revenue*
16 *Code applies.*

17 (2) *A regulated investment company or a real estate investment*
18 *trust subject to taxation under this part.*

19 (h) (1) *The credit allowable under this section shall be reduced*
20 *by the credit allowed under Sections 23623.5, 23625, and 23646*
21 *claimed for the same employee. The credit shall also be reduced*
22 *by the federal credit allowed under Section 51 of the Internal*
23 *Revenue Code, as applicable for federal purposes.*

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

28 (i) *In the case where the credit allowed by this section exceeds*
29 *the “tax,” the excess may be carried over to reduce the “tax” in*
30 *the following year, and the succeeding six years if necessary, until*
31 *exhausted.*

32 (j) *This section shall cease to be operative for taxable years*
33 *beginning on or after January 1, ____, and shall be repealed on*
34 *December 1, ____.*

35 ~~SEC. 10.~~

36 SEC. 12. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

5 ~~SEC. 11.~~

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

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