

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 29, 2013
AMENDED IN SENATE APRIL 24, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 434

Introduced by 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, 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 for specified credits, limit the application of these credits to only the qualified wages for each net increase of qualified employees, as specified, limit credit eligibility 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 notice of transfer to the new location with comparable compensation, revise the definitions of “qualified wages” and “qualified taxpayer” for specified credits, cap the aggregate amount of credit allowed per taxable year for specified hiring credits, as provided, require the Franchise Tax Board to publish specified information on its Internet Web site, as provided, and would provide that those credits remain in effect only until December 1, 2019, and as of that date are repealed.

This bill would limit the credit for a taxpayer that employs a qualified employee in an enterprise zone to only those qualified employees who first commence employment with the taxpayer before January 1, 2014, as specified. The bill would also provide that the credit would remain in effect only until December 1, 2019, and as of that date is repealed. The bill would, for taxable years beginning on or after January 1, 2014, and before January 1, 2019, for wages paid to qualified employees who first commence employment with the taxpayer after January 1, 2014, instead allow a credit for a taxpayer that has 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, LAMBRAAs, 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, 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 would impose 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:

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

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

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

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

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

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

31 (f) Any person rendering services in connection with a tax credit
32 relating to an enterprise zone, a LAMBRA, a manufacturing
33 enhancement area, or a targeted tax area may be required to
34 provide, upon request of the board of the Franchise Tax Board, a
35 written certification, submitted under penalty of perjury, that the

1 fee for those services does not include, in whole or in part, a
2 contingent fee.

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

6 (h) This section shall apply to all contracts or arrangements that
7 provide for a fee for services rendered in connection with a tax
8 credit relating to an enterprise zone, a LAMBRA, a manufacturing
9 enhancement area, or a targeted tax area on or after the effective
10 date of this act.

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

13 17053.34. (a) (1) For each taxable year beginning on or after
14 January 1, 1998, and before January 1, 2014, there shall be allowed
15 a credit against the “net tax” (as defined in Section 17039) to a
16 qualified taxpayer that employs a qualified employee in a targeted
17 tax area during the taxable year. The credit shall be equal to the
18 sum of each of the following:

19 (A) Fifty percent of qualified wages in the first year of
20 employment.

21 (B) Forty percent of qualified wages in the second year of
22 employment.

23 (C) Thirty percent of qualified wages in the third year of
24 employment.

25 (D) Twenty percent of qualified wages in the fourth year of
26 employment.

27 (E) Ten percent of qualified wages in the fifth year of
28 employment.

29 (2) (A) For each taxable year beginning on or after January 1,
30 2014, and before January 1, 2019, there shall be allowed a credit
31 against the “net tax,” as defined in Section 17039, to a qualified
32 taxpayer that employs a qualified employee in a targeted tax area
33 during the taxable year. The credit shall be equal to the sum of
34 each of the following:

35 (i) Ten percent of qualified wages in the first year of
36 employment.

37 (ii) Ten percent of qualified wages in the second year of
38 employment.

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

1 (iv) Forty percent of qualified wages in the fourth year of
2 employment.

3 (v) Fifty percent of qualified wages in the fifth year of
4 employment.

5 (B) The credit shall be allowed only with respect to qualified
6 wages paid for each net increase in qualified employees. A net
7 increase shall be determined by subtracting from the amount
8 determined in clause (i) the amount determined in clause (ii).

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

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

17 (C) If a qualified taxpayer relocated to a targeted tax area from
18 within the state during the taxable year for which the credit is
19 claimed, the qualified taxpayer shall be allowed a credit with
20 respect to qualified wages for each net increase in qualified
21 employees only if the qualified taxpayer provides each employee
22 at the previous location or locations a written notice of transfer to
23 the new location with comparable compensation. *The California*
24 *Workforce Investment Board shall certify the notice and provide*
25 *a copy to the taxpayer.* The qualified taxpayer shall provide
26 ~~self-certification with~~ *the* documentation when submitting a
27 voucher application.

28 (b) For purposes of this section:

29 (1) “Qualified wages” means:

30 (A) That portion of wages paid or incurred by the qualified
31 taxpayer during the taxable year to qualified employees that
32 exceeds 200 percent of the minimum wage and does not exceed
33 500 percent of the minimum wage.

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

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

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

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

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

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

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

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

28 (iv) Is any of the following:

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

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

1 provided for pursuant to Article 3.2 (commencing with Section
2 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, or its successor.

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

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

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

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

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

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

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

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

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

1 (V) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a disabled individual who is eligible for or 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
14 a 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.

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
21 a member of a federally recognized Indian tribe, band, or other
22 group of Native American descent.

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

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

30 (B) Priority for employment shall be provided to an individual
31 who is enrolled in a qualified program under the federal Workforce
32 Investment Act of 1998, or its successor, or the Greater Avenues
33 for Independence Act of 1985 or who is eligible as a member of
34 a targeted group under the Work Opportunity Tax Credit (Section
35 51 of the Internal Revenue Code), or its successor.

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

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

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

7 (B) In the case of any pass-thru entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section or
10 Section 23634 shall be allowed to the pass-thru entity and passed
11 through to the partners or shareholders in accordance with
12 applicable provisions of this part or Part 11 (commencing with
13 Section 23001). For purposes of this subparagraph, the term
14 “pass-thru entity” means any partnership or “S” corporation.

15 (C) “Qualified taxpayer” shall not include employers that
16 provide temporary help services, as described in Code 561320 of
17 the North American Industry Classification System (NAICS)
18 published by the United States Office of Management and Budget,
19 2012 edition.

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

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

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

27 (1) Obtain from the Employment Development Department, as
28 permitted by federal law, the local county or city Workforce
29 Investment Act of 1998 administrative entity, the local county
30 GAIN office or social services agency, or the local government
31 administering the targeted tax area, a certification that provides
32 that a qualified employee meets the eligibility requirements
33 specified in clause (iv) of subparagraph (A) of paragraph (4) of
34 subdivision (b). The Employment Development Department may
35 provide preliminary screening and referral to a certifying agency.
36 The Department of Housing and Community Development shall
37 develop regulations governing the issuance of certificates pursuant
38 to subdivision (g) of Section 7097 of the Government Code, and
39 shall develop forms for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 prior years, that may reduce the “net tax” for the taxable year shall
2 not exceed the amount of tax that would be imposed on the
3 qualified taxpayer’s business income attributable to the targeted
4 tax area determined as if that attributable income represented all
5 of the income of the qualified taxpayer subject to tax under this
6 part.

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

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

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

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

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

36 (5) In the event that a credit carryover is allowable under
37 subdivision (i) for any taxable year after the targeted tax area
38 designation has expired or been revoked, the targeted tax area shall
39 be deemed to remain in existence for purposes of computing the
40 limitation specified in this subdivision.

1 (k) (1) For the 2014 calendar year, and each calendar year
2 thereafter until January 1, 2019, the total aggregate amount of
3 credits allowed pursuant to this section shall not exceed the total
4 aggregate amount of credits claimed pursuant to this section in the
5 2013 calendar year, as determined by the Franchise Tax Board.

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

9 (l) (1) The Franchise Tax Board shall compile the certifications
10 submitted pursuant to paragraph (2) of subdivision (d) and shall
11 provide as a searchable database on its Internet Web site, for each
12 taxable year beginning on or after January 1, 2014, and before
13 January 1, 2019, the employer names, amounts of tax credit
14 claimed, and number of new jobs created for each taxable year
15 pursuant to this section, Sections 17053.46, 17053.47, 17053.74,
16 17053.90, 23622.7, 23622.8, 23634, 23646, and 23690.

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

21 (m) This section shall remain in effect only until December 1,
22 2019, and as of that date is repealed.

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

25 17053.46. (a) (1) For each taxable year beginning on or after
26 January 1, 1995, and before January 1, 2014, there shall be allowed
27 as a credit against the “net tax” (as defined in Section 17039) to a
28 qualified taxpayer for hiring a qualified disadvantaged individual
29 or a qualified displaced employee during the taxable year for
30 employment in the LAMBRA. The credit shall be equal to the sum
31 of each of the following:

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

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

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

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

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

3 (2) (A) For each taxable year beginning on or after January 1,
4 2014, and before January 1, 2019, there shall be allowed as a credit
5 against the “net tax,” as defined in Section 17039, to a qualified
6 taxpayer for hiring a qualified disadvantaged individual or a
7 qualified displaced employee during the taxable year for
8 employment in the LAMBRA. The credit shall be equal to the sum
9 of each of the following:

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

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

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

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

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

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

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 LAMBRA from within
36 the state during the taxable year for which the credit is claimed,
37 the qualified taxpayer shall be allowed a credit with respect to
38 qualified wages for each net increase in qualified employees only
39 if the qualified taxpayer provides each employee at the previous
40 location or locations a written notice of transfer to the new location

1 with comparable compensation. *The California Workforce*
2 *Investment Board shall certify the notice and provide a copy to*
3 *the taxpayer.* The qualified taxpayer shall provide ~~self-certification~~
4 ~~with the~~ 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 employer
8 during the taxable year to qualified disadvantaged individuals or
9 qualified displaced employees that exceeds 200 percent of the
10 minimum wage and does not exceed 500 percent of the minimum
11 wage.

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

16 (C) Wages received during the 60-month period beginning with
17 the first day the individual commences employment with the
18 taxpayer. Reemployment in connection with any increase, including
19 a regularly occurring seasonal increase, in the trade or business
20 operations of the qualified taxpayer does not constitute
21 commencement of 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 LAMBRA expiration date.
24 However, wages paid or incurred with respect to qualified
25 disadvantaged individuals or qualified displaced employees who
26 are employed by the qualified taxpayer within the LAMBRA within
27 the 60-month period prior to the LAMBRA expiration date shall
28 continue to qualify for the credit under this section after the
29 LAMBRA expiration date, in accordance with all provisions of
30 this section applied as if the LAMBRA designation were still in
31 existence and binding.

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

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

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

- 1 (A) (i) At least 90 percent of whose services for the taxpayer
2 during the taxable year are directly related to the conduct of the
3 taxpayer's trade or business located in a LAMBRA.
- 4 (ii) Who performs at least 50 percent of his or her services for
5 the taxpayer during the taxable year in the LAMBRA.
- 6 (B) Who is hired by the employer after the designation of the
7 area as a LAMBRA in which the individual's services were
8 primarily performed.
- 9 (C) Who is any of the following immediately preceding the
10 individual's commencement of employment with the taxpayer:
- 11 (i) An individual who has been determined eligible for services
12 under the federal Workforce Investment Act of 1998 (29 U.S.C.
13 Sec. 2801 et seq.).
- 14 (ii) Any voluntary or mandatory registrant under the Greater
15 Avenues for Independence Act of 1985 as provided pursuant to
16 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
17 3 of Division 9 of the Welfare and Institutions Code.
- 18 (iii) An economically disadvantaged individual 16 years of age
19 or older.
- 20 (iv) A dislocated worker who meets any of the following
21 conditions:
- 22 (I) Has been terminated or laid off or who has received a notice
23 of termination or layoff from employment, is eligible for or has
24 exhausted entitlement to unemployment insurance benefits, and
25 is unlikely to return to his or her previous industry or occupation.
- 26 (II) 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 (III) Is long-term unemployed and has limited opportunities for
32 employment or reemployment in the same or a similar occupation
33 in the area in which the individual resides, including an individual
34 55 years of age or older who may have substantial barriers to
35 employment by reason of age.
- 36 (IV) Was self-employed (including farmers and ranchers) and
37 is unemployed as a result of general economic conditions in the
38 community in which he or she resides or because of natural
39 disasters.

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

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

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

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

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

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

20 (vii) A recipient of:

21 (I) Federal Supplemental Security Income benefits.

22 (II) Aid to Families with Dependent Children.

23 (III) CalFresh benefits.

24 (IV) State and local general assistance.

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

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

32 (A) The net increase in the number of jobs shall be determined
33 by subtracting the total number of full-time employees (defined
34 as 2,000 paid hours per employee per year) the taxpayer employed
35 in this state in the taxable year prior to commencing business
36 operations in the LAMBRA from the total number of full-time
37 employees the taxpayer employed in this state during the second
38 taxable year after commencing business operations in the
39 LAMBRA. For taxpayers that commence doing business in this
40 state with their LAMBRA business operation, the number of

1 employees for the taxable year prior to commencing business
2 operations in the LAMBRA shall be zero. If the taxpayer has a net
3 increase in jobs in the state, the credit shall be allowed only if one
4 or more full-time employees is employed within the LAMBRA.

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

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

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

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

20 (D) “Qualified taxpayer” shall not include employers that
21 provide temporary help services, as described in Code 561320 of
22 the North American Industry Classification System (NAICS)
23 published by the United States Office of Management and Budget,
24 2012 edition.

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

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

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

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

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

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

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

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

4 (1) Obtain from the Employment Development Department, as
5 permitted by federal law, the local county or city Workforce
6 Investment Act of 1998 administrative entity, the local county
7 GAIN office or social services agency, or the local government
8 administering the LAMBRA, a certification that provides that a
9 qualified disadvantaged individual or qualified displaced employee
10 meets the eligibility requirements specified in subparagraph (C)
11 of paragraph (4) of subdivision (b) or subparagraph (A) of
12 paragraph (6) of subdivision (b). The Employment Development
13 Department may provide preliminary screening and referral to a
14 certifying agency. The Department of Housing and Community
15 Development shall develop regulations governing the issuance of
16 certificates pursuant to Section 7114.2 of the Government Code
17 and shall develop forms for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (k) (1) For the 2014 calendar year, and each calendar year
28 thereafter until January 1, 2019, the total aggregate amount of
29 credits allowed pursuant to this section shall not exceed the total
30 aggregate amount of credits claimed pursuant to this section in the
31 2013 calendar year, as determined by the Franchise Tax Board.

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

35 (l) (1) 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, Sections 17053.34, 17053.47, 17053.74,
2 17053.90, 23622.7, 23622.8, 23634, 23646, and 23690.

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

7 (m) This section shall remain in effect only until December 1,
8 2019, and as of that date is repealed.

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

11 17053.47. (a) (1) For each taxable year beginning on or after
12 January 1, 1998, and before January 1, 2014, there shall be allowed
13 a credit against the “net tax” (as defined in Section 17039) to a
14 qualified taxpayer for hiring a qualified disadvantaged individual
15 during the taxable year for employment in the manufacturing
16 enhancement area. The credit shall be equal to the sum of each of
17 the following:

18 (A) Fifty percent of the qualified wages in the first year of
19 employment.

20 (B) Forty percent of the qualified wages in the second year of
21 employment.

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

24 (D) Twenty percent of the qualified wages in the fourth year of
25 employment.

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

28 (2) (A) For each taxable year beginning on or after January 1,
29 2014, and before January 1, 2019, there shall be allowed as a credit
30 against the “net tax,” as defined in Section 17039, to a qualified
31 taxpayer for hiring a qualified disadvantaged individual during the
32 taxable year for employment in the manufacturing enhancement
33 area. The credit shall be equal to the sum of each of the following:

34 (i) Ten percent of qualified wages in the first year of
35 employment.

36 (ii) Ten percent of qualified wages in the second year of
37 employment.

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

1 (iv) Forty percent of qualified wages in the fourth year of
2 employment.

3 (v) Fifty percent of qualified wages in the fifth year of
4 employment.

5 (B) The credit shall be allowed only with respect to qualified
6 wages paid for each net increase in qualified employees. A net
7 increase shall be determined by subtracting from the amount
8 determined in clause (i) the amount determined in clause (ii). For
9 purposes of this subparagraph, “qualified employee” means
10 qualified disadvantaged individual.

11 (i) The total number of qualified employees employed in the
12 state in the preceding taxable year by the qualified taxpayer and
13 by any trade or business acquired by the qualified taxpayer during
14 the preceding taxable year.

15 (ii) The total number of qualified employees employed in the
16 state in the current taxable year by the qualified taxpayer and by
17 any trade or business acquired by the qualified taxpayer during
18 the current taxable year.

19 (C) If a qualified taxpayer relocated to a manufacturing
20 enhancement area from within the state during the taxable year
21 for which the credit is claimed, the qualified taxpayer shall be
22 allowed a credit with respect to qualified wages for each net
23 increase in qualified employees only if the qualified taxpayer
24 provides each employee at the previous location or locations a
25 written notice of transfer to the new location with comparable
26 compensation. *The California Workforce Investment Board shall*
27 *certify the notice and provide a copy to the taxpayer.* The qualified
28 taxpayer shall provide ~~self-certification with~~ the documentation
29 when submitting a voucher application.

30 (b) For purposes of this section:

31 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

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

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

7 (i) An individual who has been determined eligible for services
8 under the federal Workforce Investment Act of 1998 (29 U.S.C.
9 Sec. 2801 et seq.), or its successor.

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

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

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

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

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

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

35 (B) “Qualified taxpayer” shall not include employers that
36 provide temporary help services, as described in Code 561320 of
37 the North American Industry Classification System (NAICS)
38 published by the United States Office of Management and Budget,
39 2012 edition.

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

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

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

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

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

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

38 (B) If the seasonal employment of any qualified disadvantaged
39 individual, with respect to whom qualified wages are taken into
40 account under subdivision (a) is not continued by the qualified

1 taxpayer for a period of 270 days of employment during the
2 60-month period beginning with the day the qualified
3 disadvantaged individual commences seasonal employment with
4 the qualified taxpayer, the tax imposed by this part, for the taxable
5 year that includes the 60th month following the month in which
6 the qualified disadvantaged individual 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 disadvantaged
11 individual.

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

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

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

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

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

30 (v) A termination of employment of a qualified disadvantaged
31 individual, if that individual is replaced by other qualified
32 disadvantaged individuals so as to create a net increase in both the
33 number of employees and the 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 disadvantaged individual who voluntarily fails to return to the
38 seasonal employment of the qualified taxpayer.

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

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

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

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

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

21 (C) For purposes of paragraph (1), the employment relationship
22 between the qualified taxpayer and a qualified disadvantaged
23 individual shall not be treated as terminated by reason of a mere
24 change in the form of conducting the trade or business of the
25 qualified taxpayer, if the qualified disadvantaged individual
26 continues to be employed in that trade or business and the qualified
27 taxpayer 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 (e) In the case of an estate or trust, both of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (1) Obtain from the Employment Development Department, as
16 permitted by federal law, the local county or city Workforce
17 Investment Act of 1998 administrative entity, the local county
18 GAIN office or social services agency, or the local government
19 administering the manufacturing enhancement area, a certification
20 that provides that a qualified disadvantaged individual meets the
21 eligibility requirements specified in paragraph (5) of subdivision
22 (b). The Employment Development Department may provide
23 preliminary screening and referral to a certifying agency. The
24 Department of Housing and Community Development shall
25 develop regulations governing the issuance of certificates pursuant
26 to subdivision (d) of Section 7086 of the Government Code and
27 shall develop forms for this purpose.

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

30 (k) (1) For the 2014 calendar year, and each calendar year
31 thereafter, until January 1, 2019, the total aggregate amount of
32 credits allowed pursuant to this section shall not exceed the total
33 aggregate amount of credits claimed pursuant to this section in the
34 2013 calendar year, as determined by the 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 (j) and shall
40 provide as a searchable database on its Internet Web site, for each

1 taxable year beginning on or after January 1, 2014, and before
2 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, 17053.74,
5 17053.90, 23622.7, 23622.8, 23634, 23646, and 23690.

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

14 17053.74. (a) (1) There shall be allowed a credit against the
15 “net tax” (as defined in Section 17039) to a taxpayer that employs
16 a qualified employee in an enterprise zone during the taxable year,
17 but only if the qualified employee first commences employment
18 with the taxpayer before January 1, 2014. The credit shall be equal
19 to the sum of each of the following:

20 (A) Fifty percent of qualified wages in the first year of
21 employment.

22 (B) Forty percent of qualified wages in the second year of
23 employment.

24 (C) Thirty percent of qualified wages in the third year of
25 employment.

26 (D) Twenty percent of qualified wages in the fourth year of
27 employment.

28 (E) Ten percent of qualified wages in the fifth year of
29 employment.

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

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

39 (ii) Performs at least 50 percent of his or her services for the
40 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 Workforce Investment Act
- 7 of 1998 (29 U.S.C. Sec. 2801 et seq.), or its successor, who is
- 8 receiving, or is eligible to receive, subsidized employment, training,
- 9 or services funded by the federal Workforce Investment Act of
- 10 1998 (29 U.S.C. Sec. 2801 et seq.), or its successor.
- 11 (II) Immediately preceding the qualified employee's
- 12 commencement of employment with the taxpayer, was a person
- 13 eligible to be a voluntary or mandatory registrant under the Greater
- 14 Avenues for Independence Act of 1985 (GAIN) provided for
- 15 pursuant to Article 3.2 (commencing with Section 11320) of
- 16 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
- 17 Code, or its successor.
- 18 (III) Immediately preceding the qualified employee's
- 19 commencement of employment with the taxpayer, was an
- 20 economically disadvantaged individual 14 years of age or older.
- 21 (IV) Immediately preceding the qualified employee's
- 22 commencement of employment with the taxpayer, was a dislocated
- 23 worker who meets any of the following:
- 24 (ia) Has been terminated or laid off or who has received a notice
- 25 of termination or layoff from employment, is eligible for or has
- 26 exhausted entitlement to unemployment insurance benefits, and
- 27 is unlikely to return to his or her previous industry or occupation.
- 28 (ib) Has been terminated or has received a notice of termination
- 29 of employment as a result of any permanent closure or any
- 30 substantial layoff at a plant, facility, or enterprise, including an
- 31 individual who has not received written notification but whose
- 32 employer has made a public announcement of the closure or layoff.
- 33 (ic) Is long-term unemployed and has limited opportunities for
- 34 employment or reemployment in the same or a similar occupation
- 35 in the area in which the individual resides, including an individual
- 36 55 years of age or older who may have substantial barriers to
- 37 employment by reason of age.
- 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 (ie) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned under
5 the federal Defense Base Closure and Realignment Act of 1990.

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

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

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

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

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

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

30 (ia) Federal Supplemental Security Income benefits.

31 (ib) Aid to Families with Dependent Children.

32 (ic) CalFresh benefits.

33 (id) State and local general assistance.

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

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a resident

1 of a targeted employment area, as defined in Section 7072 of the
2 Government Code.

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

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

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Workforce
12 Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its
13 successor, or the Greater Avenues for Independence Act of 1985
14 or who is eligible as a member of a targeted group under the Work
15 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
16 or its successor.

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

21 (B) "Taxpayer" shall not include employers that provide
22 temporary help services, as described in Code 561320 of the North
23 American Industry Classification System (NAICS) published by
24 the United States Office of Management and Budget, 2012 edition.

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

28 (c) The taxpayer shall do the following:

29 (1) (A) Obtain from the Employment Development Department,
30 as permitted by federal law, the local county or city Workforce
31 Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.)
32 administrative entity, the local county GAIN office or social
33 services agency, or the local government administering the
34 enterprise zone, a certification which provides that a qualified
35 employee meets the eligibility requirements specified in clause
36 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
37 Employment Development Department may provide preliminary
38 screening and referral to a certifying agency. The Employment
39 Development Department shall develop a form for this purpose.
40 The Department of Housing and Community Development shall

1 develop regulations governing the issuance of certificates by local
2 governments pursuant to subdivision (a) of Section 7086 of the
3 Government Code.

4 (B) (i) For any otherwise qualified employee for whom a
5 certification as described in subparagraph (A) has not been obtained
6 and for whom a request for certification as described in
7 subparagraph (A) has not been previously submitted, the request
8 certification required under subparagraph (A) with respect to that
9 otherwise qualified employee shall be submitted to the certifying
10 entity no later than one year after the operative date of the act
11 amending this section.

12 (ii) Notwithstanding anything to the contrary, a credit shall not
13 be allowed under this section with respect to any otherwise
14 qualified employee described in clause (i) unless the request for
15 certification required under subparagraph (A) was timely submitted
16 in accordance with clause (i).

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

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

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

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

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

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

39 (e) (1) (A) If the employment, other than seasonal employment,
40 of any qualified employee, with respect to whom qualified wages

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

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

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

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

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

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

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

39 (v) A termination of employment of a qualified employee, if
40 that employee is replaced by other qualified employees so as to

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

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

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

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

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

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

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

27 (C) For purposes of paragraph (1), the employment relationship
28 between the taxpayer and a qualified employee shall not be treated
29 as terminated by reason of a mere change in the form of conducting
30 the trade or business of the taxpayer, if the qualified employee
31 continues to be employed in that trade or business and the taxpayer
32 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 (f) 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 (g) For purposes of this section, “enterprise zone” means an
5 area designated as an enterprise zone pursuant to Chapter 12.8
6 (commencing with Section 7070) of Division 7 of Title 1 of the
7 Government Code.

8 (h) The credit allowable under this section shall be reduced by
9 the credit allowed under Sections 17053.10, 17053.17, and
10 17053.46 claimed for the same employee. The credit shall also be
11 reduced by the federal credit allowed under Section 51 of the
12 Internal Revenue Code.

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

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

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

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

39 (3) Business income shall be apportioned to the enterprise zone
40 by multiplying the total California business income of the taxpayer

1 by a fraction, the numerator of which is the property factor plus
2 the payroll factor, and the denominator of which is two. For
3 purposes of this paragraph:

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

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

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

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

22 (l) The Franchise Tax Board shall compile the certifications
23 submitted pursuant to paragraph (2) of subdivision (c) and shall
24 provide as a searchable database on its Internet Web site, for each
25 taxable year beginning on or after January 1, 2014, and before
26 January 1, 2019, the employer names, amounts of tax credit
27 claimed, and number of new jobs created for each taxable year
28 pursuant to this section, and Sections 17053.34, 17053.46,
29 17053.47, 17053.90, 23622.7, 23622.8, 23634, 23646, and 23690.

30 (m) This section shall remain in effect only until December 1,
31 2019, and as of that date is repealed.

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

34 17053.90. (a) (1) For each taxable year beginning on or after
35 January 1, 2014, and before January 1, 2019, there shall be allowed
36 to a qualified taxpayer that hires a qualified full-time employee
37 and pays or incurs qualified wages attributable to work performed
38 by the qualified full-time employee in an enterprise zone during
39 the taxable year a credit against the "net tax," as defined in Section
40 17039, in an amount calculated under this section.

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

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

16 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

12 (B) Except as provided in paragraph (2) of subdivision (m),
13 qualified wages do not include any wages paid or incurred by the
14 qualified taxpayer on or after the zone expiration date.

15 (5) “Minimum wage” means the wage established pursuant to
16 Chapter 1 (commencing with Section 1171) of Part 4 of Division
17 2 of the Labor Code.

18 (6) “Zone expiration date” means the date that the enterprise
19 zone designation expires, is no longer binding, or becomes
20 inoperative.

21 (7) “Acquired” includes any gift, inheritance, transfer incident
22 to divorce, or any other transfer, whether or not for consideration.

23 (8) (A) “Qualified full-time employee” means an individual
24 who meets all of the following requirements:

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

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

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

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

34 (v) Satisfies either of the following conditions:

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

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

40 (vi) Is any of the following:

1 (I) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a person eligible for services under the federal Workforce
4 Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its
5 successor, who is receiving, or is eligible to receive, subsidized
6 employment, training, or services funded by the federal Workforce
7 Investment Act of 1998, or its successor.

8 (II) Immediately preceding the qualified employee's
9 commencement of employment with the qualified taxpayer, was
10 a person eligible to be a voluntary or mandatory registrant under
11 the Greater Avenues for Independence Act of 1985 (GAIN)
12 provided for pursuant to Article 3.2 (commencing with Section
13 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
14 Institutions Code, or its successor.

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

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

21 (ia) Has been terminated or laid off or has received a notice of
22 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 (ib) Has been terminated or has received a notice of termination
26 of employment as a result of any permanent closure or any
27 substantial layoff at a plant, facility, or enterprise, including an
28 individual who has not received written notification but whose
29 employer has made a public announcement of the closure or layoff.

30 (ic) Is long-term unemployed and has limited opportunities for
31 employment or reemployment in the same or a similar occupation
32 in the area in which the individual resides, including an individual
33 55 years of age or older who may have substantial barriers to
34 employment by reason of age.

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

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

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

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

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

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

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

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

28 (ia) Federal Supplemental Security Income benefits.

29 (ib) Aid to Families with Dependent Children, or its successor.

30 (ic) CalFresh benefits.

31 (id) State and local general assistance.

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

36 (IX) Immediately preceding the qualified employee's
37 commencement of employment with the qualified taxpayer, was
38 a resident of a targeted employment area, as defined in Section
39 7072 of the Government Code.

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

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

8 (B) An individual may only be considered a qualified full-time
9 employee for the period of time commencing with the date the
10 individual is first employed by the qualified taxpayer and ending
11 60 months thereafter.

12 (C) Priority for employment shall be provided to an individual
13 who is enrolled in a qualified program under the federal Workforce
14 Investment Act of 1998, or its successor, or the Greater Avenues
15 for Independence Act of 1985 or who is eligible as a member of
16 a targeted group under the Work Opportunity Tax Credit (Section
17 51 of the Internal Revenue Code), or its successor.

18 (9) (A) "Qualified taxpayer" means a person or entity engaged
19 in a trade or business within an enterprise zone that meets both of
20 the following requirements during the taxable year:

21 (i) Pays or incurs qualified wages.

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

23 (B) In the case of any pass-thru entity, the determination of
24 whether a taxpayer is a qualified taxpayer under this section shall
25 be made at the entity level and any credit under this section or
26 Section 23690 shall be allowed to the pass-thru entity and passed
27 through to the partners and shareholders in accordance with
28 applicable provisions of this part or Part 11 (commencing with
29 Section 23001). For purposes of this subdivision, the term
30 "pass-thru entity" means any partnership or "S" corporation.

31 (C) "Qualified taxpayer" shall not include employers that
32 provide temporary help services, as described in Code 561320 of
33 the North American Industry Classification System (NAICS)
34 published by the United States Office of Management and Budget,
35 2012 edition.

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

39 (11) "Annual full-time equivalent" means all of the following:

40 (A) Either of the following:

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

5 (ii) In the case of a salaried full-time employee, “annual full-time
6 equivalent” means the total number of weeks worked for the
7 qualified taxpayer by the employee, divided by 52.

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

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

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

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

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

21 (B) The net increase in the total number of full-time employees
22 shall be determined by subtracting the amount determined under
23 clause (ii) from the amount determined under clause (i). If the
24 amount determined under clause (ii) is equal to or exceeds the
25 amount determined under clause (i), the amount determined under
26 this subparagraph shall be zero.

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

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

35 (2) For qualified taxpayers that first commence doing business
36 in this state during the taxable year, the number of full-time
37 employees in this state under clause (ii) of subparagraph (B) of
38 paragraph (1) for the base year shall be zero.

39 (3) For purposes of determining the number of full-time
40 employees of the qualified taxpayer who are employed in this state

1 under this section, only those employees who receive wages that
2 are subject to Division 6 (commencing with Section 13000) of the
3 Unemployment Insurance Code from the qualified taxpayer
4 comprising more than 50 percent of that employee’s total wages
5 received from the qualified taxpayer for the taxable year shall be
6 included.

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

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

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

17 (A) Obtain from the Employment Development Department,
18 as permitted by federal law, the local county or city Workforce
19 Investment Act of 1998 administrative entity, the local county
20 GAIN office or social services agency, or the local government
21 administering the enterprise zone, a certification that provides that
22 a qualified employee meets the eligibility requirements specified
23 in clause (vi) of subparagraph (A) of paragraph (8) of subdivision
24 (b). The Employment Development Department may provide
25 preliminary screening and referral to a certifying agency. The
26 Employment Development Department shall develop a form for
27 this purpose. The Department of Housing and Community
28 Development shall develop regulations governing the issuance of
29 certificates by local governments pursuant to subdivision (a) of
30 Section 7086 of the Government Code.

31 (B) Retain a copy of the certification and provide it to the
32 Franchise Tax Board annually.

33 (2) The credit allowed by this section may only be claimed on
34 an original or amended return of the qualified taxpayer filed no
35 later than one year after the original due date, without regard to
36 extension, of the qualified taxpayer’s return for the year for which
37 the credit is claimed.

38 (f) (1) For purposes of this section:

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

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

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

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

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

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

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

26 (h) For purposes of this section, “enterprise zone” means an
27 area designated as an enterprise zone pursuant to Chapter 12.8
28 (commencing with Section 7070) of Division 7 of Title 1 of the
29 Government Code.

30 (i) (1) The credit allowable under this section shall be reduced
31 by the credit allowed under Section 17053.46 claimed for the same
32 employee. The credit shall also be reduced by the federal credit
33 allowed under Section 51 of the Internal Revenue Code, as
34 applicable for federal purposes.

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

39 (j) In the case where the credit allowed by this section exceeds
40 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and the succeeding six years if
2 necessary, until the credit is exhausted.

3 (k) (1) The amount of the credit otherwise allowed under this
4 section and Section 23690, 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 enterprise
8 zone determined as if that attributable income represented all of
9 the income of the qualified taxpayer subject to tax under this part.

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

20 (3) Business income shall be apportioned to the enterprise zone
21 by multiplying the total California business income of the qualified
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 qualified taxpayer’s real and tangible
27 personal property owned or rented and used in the enterprise zone
28 during the taxable year, and the denominator of which is the
29 average value of all the qualified taxpayer’s real and tangible
30 personal property owned or rented and used in this state during
31 the taxable year.

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

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

1 (l) (1) The Franchise Tax Board shall compile the certifications
2 submitted pursuant to subparagraph (B) of paragraph (1) of
3 subdivision (e) and shall provide as a searchable database on its
4 Internet Web site, for each taxable year beginning on or after
5 January 1, 2014, and before January 1, 2019, the employer names,
6 amounts of tax credit claimed, and number of new jobs created
7 for each taxable year pursuant to this section, Sections 17053.34,
8 17053.46, 17053.47, 17053.74, 17053.90, 23622.7, 23622.8, 23634,
9 23646, and 23690.

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

14 (m) (1) This section shall remain in effect only until December
15 1, 2019, and as of that date is repealed.

16 (2) Notwithstanding paragraph (1), this section shall remain
17 operative for any qualified taxpayer with respect to any qualified
18 full-time employee after the zone expiration date for the remaining
19 period, if any, of the 60-month period after the original date of
20 hiring of an otherwise qualified full-time employee, and any wages
21 paid or incurred with respect to those qualified full-time employees
22 after the zone expiration date shall be treated as qualified wages
23 under this section, provided the employee satisfies any other
24 requirements of paragraphs (4) and (8) of subdivision (b), as if the
25 enterprise zone designation were still in existence and binding.

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

28 23622.7. (a) (1) There shall be allowed a credit against the
29 “tax” (as defined by Section 23036) to a taxpayer that employs a
30 qualified employee in an enterprise zone during the taxable year,
31 but only if the qualified employee first commences employment
32 with the taxpayer before January 1, 2014. The credit shall be equal
33 to the sum of each of the following:

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

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

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

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

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

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

15 (b) For purposes of this section:

16 (1) “Qualified wages” means:

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

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

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

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

1 if the enterprise zone designation were still in existence and
2 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) “Zone expiration date” means the date the enterprise zone
8 designation expires, is no longer binding, or becomes inoperative.

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

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

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

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

18 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 4 (ia) Federal Supplemental Security Income benefits.
- 5 (ib) Aid to Families with Dependent Children.
- 6 (ic) CalFresh benefits.
- 7 (id) State and local general assistance.

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

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

16 (X) An employee who qualified the taxpayer for the enterprise
17 zone hiring credit under former Section 23622 or the program area
18 hiring credit under former Section 23623.

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

23 (B) Priority for employment shall be provided to an individual
24 who is enrolled in a qualified program under the federal Workforce
25 Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its
26 successor, or the Greater Avenues for Independence Act of 1985
27 or who is eligible as a member of a targeted group under the Work
28 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
29 or its successor.

30 (5) (A) "Taxpayer" means a corporation engaged in a trade or
31 business within an enterprise zone designated pursuant to Chapter
32 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
33 the Government Code.

34 (B) "Taxpayer" shall not include employers that provide
35 temporary help services, as described in Code 561320 of the North
36 American Industry Classification System (NAICS) published by
37 the United States Office of Management and Budget, 2012 edition.

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

1 (c) The taxpayer shall do the following:

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

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

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

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

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

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

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

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

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

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

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

1 prior taxable years attributable to qualified wages paid or incurred
2 with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii) By reason of a mere change in the form of conducting the
15 trade or business of the taxpayer, if the qualified employee
16 continues to be employed in that trade or business and the taxpayer
17 retains a substantial interest in that trade or business.

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

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

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

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

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

32 (h) The credit allowable under this section shall be reduced by
33 the credit allowed under Sections 23623.5, 23625, and 23646
34 claimed for the same employee. The credit shall also be reduced
35 by the federal credit allowed under Section 51 of the Internal
36 Revenue Code.

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

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

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

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

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

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

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

39 (4) The portion of any credit remaining, if any, after application
40 of this subdivision, shall be carried over to succeeding taxable

1 years, as if it were an amount exceeding the “tax” for the taxable
2 year, as provided in subdivision (i).

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

5 (l) The Franchise Tax Board shall compile the certifications
6 submitted pursuant to paragraph (2) of subdivision (c) and shall
7 provide as a searchable database on its Internet Web site, for each
8 taxable year beginning on or after January 1, 2014, and before
9 January 1, 2019, the employer names, amounts of tax credit
10 claimed, and number of new jobs created for each taxable year
11 pursuant to this section, and Sections 17053.34, 17053.46,
12 17053.47, 17053.90, 23622.7, 23622.8, 23634, 23646, and 23690.

13 (m) This section shall remain in effect only until December 1,
14 2019, and as of that date is repealed.

15 SEC. 8. Section 23622.8 of the Revenue and Taxation Code
16 is amended to read:

17 23622.8. (a) (1) For each taxable year beginning on or after
18 January 1, 1998, and before January 1, 2014, there shall be allowed
19 a credit against the “tax” (as defined in Section 23036) to a
20 qualified taxpayer for hiring a qualified disadvantaged individual
21 during the taxable year for employment in the manufacturing
22 enhancement area. The credit shall be equal to the sum of each of
23 the following:

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

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

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

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

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

34 (2) (A) For each taxable year beginning on or after January 1,
35 2014, and before January 1, 2019, there shall be allowed as a credit
36 against the “net tax,” as defined in Section 23036, to a qualified
37 taxpayer for hiring a qualified disadvantaged individual during the
38 taxable year for employment in the manufacturing enhancement
39 area. The credit shall be equal to the sum of each of the following:

- 1 (i) Ten percent of qualified wages in the first year of
- 2 employment.
- 3 (ii) Ten percent of qualified wages in the second year of
- 4 employment.
- 5 (iii) Thirty percent of qualified wages in the third year of
- 6 employment.
- 7 (iv) Forty percent of qualified wages in the fourth year of
- 8 employment.
- 9 (v) Fifty percent of qualified wages in the fifth year of
- 10 employment.
- 11 (B) The credit shall be allowed only with respect to qualified
- 12 wages paid for each net increase in qualified employees. A net
- 13 increase shall be determined by subtracting from the amount
- 14 determined in clause (i) the amount determined in clause (ii). For
- 15 purposes of this subparagraph, “qualified employee” means
- 16 qualified disadvantaged individual.
- 17 (i) The total number of qualified employees employed in the
- 18 state in the preceding taxable year by the qualified taxpayer and
- 19 by any trade or business acquired by the qualified taxpayer during
- 20 the preceding taxable year.
- 21 (ii) The total number of qualified employees employed in the
- 22 state in the current taxable year by the qualified taxpayer and by
- 23 any trade or business acquired by the qualified taxpayer during
- 24 the current taxable year.
- 25 (C) If a qualified taxpayer relocated to a manufacturing
- 26 enhancement area from within the state during the taxable year
- 27 for which the credit is claimed, the qualified taxpayer shall be
- 28 allowed a credit with respect to qualified wages for each net
- 29 increase in qualified employees only if the qualified taxpayer
- 30 provides each employee at the previous location or locations a
- 31 written notice of transfer to the new location with comparable
- 32 compensation. *The California Workforce Investment Board shall*
- 33 *certify the notice and provide a copy to the taxpayer.* The qualified
- 34 taxpayer shall provide ~~self-certification with~~ *the* documentation
- 35 when submitting a voucher application.
- 36 (b) For purposes of this section:
- 37 (1) “Qualified wages” means:
- 38 (A) That portion of wages paid or incurred by the qualified
- 39 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
12 qualified taxpayer does not constitute commencement of
13 employment for purposes 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 Workforce Investment Act of 1998 (29 U.S.C.
14 Sec. 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 corporation engaged
25 in a trade or business within a manufacturing enhancement area
26 designated pursuant to Section 7073.8 of the Government Code
27 and that 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 published by the United States Office of Management and Budget,
5 2012 edition.

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

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

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

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

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

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

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

1 attributable to qualified wages paid or incurred with respect to that
2 qualified disadvantaged individual.

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

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

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

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

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

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

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

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

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

33 (ii) By reason of a mere change in the form of conducting the
34 trade or business of the qualified taxpayer, if the qualified
35 disadvantaged individual continues to be employed in that trade
36 or business and the qualified taxpayer retains a substantial interest
37 in that trade or business.

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

1 (e) The credit shall be reduced by the credit allowed under
2 Section 23621. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

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

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

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

1 personal property owned or rented and used in this state during
2 the taxable year.

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

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

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

17 (1) Obtain from the Employment Development Department, as
18 permitted by federal law, the local county or city Workforce
19 Investment Act of 1998 administrative entity, the local county
20 GAIN office or social services agency, or the local government
21 administering the manufacturing enhancement area, a certification
22 that provides that a qualified disadvantaged individual meets the
23 eligibility requirements specified in paragraph (5) of subdivision
24 (b). The Employment Development Department may provide
25 preliminary screening and referral to a certifying agency. The
26 Department of Housing and Community Development shall
27 develop regulations governing the issuance of certificates pursuant
28 to subdivision (d) of Section 7086 of the Government Code and
29 shall develop forms for this purpose.

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

32 (j) (1) For 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 2013 calendar year, as determined by the Franchise Tax Board.

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

1 (k) (1) The Franchise Tax Board shall compile the certifications
 2 submitted pursuant to paragraph (2) of subdivision (i) and shall
 3 provide as a searchable database on its Internet Web site, for each
 4 taxable year beginning on or after January 1, 2014, and before
 5 January 1, 2019, the employer names, amounts of tax credit
 6 claimed, and number of new jobs created for each taxable year
 7 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
 8 17053.74, 17053.90, 23622.7, 23634, 23646, and 23690.

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

13 (l) This section shall remain in effect only until December 1,
 14 2019, and as of that date is repealed.

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

17 23634. (a) (1) For each taxable year beginning on or after
 18 January 1, 1998, and before January 1, 2014, there shall be allowed
 19 a credit against the “tax” (as defined by Section 23036) to a
 20 qualified taxpayer that employs a qualified employee in a targeted
 21 tax area during the taxable year. The credit shall be equal to the
 22 sum of each of the following:

23 (A) Fifty percent of qualified wages in the first year of
 24 employment.

25 (B) Forty percent of qualified wages in the second year of
 26 employment.

27 (C) Thirty percent of qualified wages in the third year of
 28 employment.

29 (D) Twenty percent of qualified wages in the fourth year of
 30 employment.

31 (E) Ten percent of qualified wages in the fifth year of
 32 employment.

33 (2) (A) For each taxable year beginning on or after January 1,
 34 2014, and before January 1, 2019, there shall be allowed a credit
 35 against the “net tax,” as defined in Section 23036, to a qualified
 36 taxpayer that employs a qualified employee in a targeted tax area
 37 during the taxable year. The credit shall be equal to the sum of
 38 each of the following:

39 (i) Ten percent of qualified wages in the first year of
 40 employment.

1 (ii) Ten percent of qualified wages in the second year of
2 employment.

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

5 (iv) Forty percent of qualified wages in the fourth year of
6 employment.

7 (v) Fifty percent of qualified wages in the fifth year of
8 employment.

9 (B) The credit shall be allowed only with respect to qualified
10 wages paid for each net increase in qualified employees. A net
11 increase shall be determined by subtracting from the amount
12 determined in clause (i) the amount determined in clause (ii).

13 (i) The total number of qualified employees employed in the
14 state in the preceding taxable year by the qualified taxpayer and
15 by any trade or business acquired by the qualified taxpayer during
16 the preceding taxable year.

17 (ii) The total number of qualified employees employed in the
18 state in the current taxable year by the qualified taxpayer and by
19 any trade or business acquired by the qualified taxpayer during
20 the current taxable year.

21 (C) If a qualified taxpayer relocated to a targeted tax area from
22 within the state during the taxable year for which the credit is
23 claimed, the qualified taxpayer shall be allowed a credit with
24 respect to qualified wages for each net increase in qualified
25 employees only if the qualified taxpayer provides each employee
26 at the previous location or locations a written notice of transfer to
27 the new location with comparable compensation. *The California*
28 *Workforce Investment Board shall certify the notice and provide*
29 *a copy to the taxpayer.* The qualified taxpayer shall provide
30 ~~self-certification with~~ the documentation when submitting a
31 voucher application.

32 (b) For purposes of this section:

33 (1) “Qualified wages” means:

34 (A) That portion of wages paid or incurred by the qualified
35 taxpayer during the taxable year to qualified employees that
36 exceeds 200 percent of the minimum wage and does not exceed
37 500 percent of the minimum wage.

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

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

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

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

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

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

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

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

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

31 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

1 industry, aggravated by continual advancements in technology and
2 mechanization.

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

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

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

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

20 (ia) Federal Supplemental Security Income benefits.

21 (ib) Aid to Families with Dependent Children.

22 (ic) CalFresh benefits.

23 (id) State and local general assistance.

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

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

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

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

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

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

6 (ii) Is engaged in those lines of business described in Codes
7 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
8 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
9 of the Standard Industrial Classification (SIC) Manual published
10 by the United States Office of Management and Budget, 1987
11 edition.

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

20 (C) “Qualified taxpayer” shall not include employers that
21 provide temporary help services, as described in Code 561320 of
22 the North American Industry Classification System (NAICS)
23 published by the United States Office of Management and Budget,
24 2012 edition.

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 Workforce
34 Investment Act of 1998 administrative entity, the local county
35 GAIN office or social services agency, or the local government
36 administering the targeted tax area, a certification that provides
37 that a qualified employee meets the eligibility requirements
38 specified in clause (iv) of subparagraph (A) of paragraph (4) of
39 subdivision (b). The Employment Development Department may
40 provide preliminary screening and referral to a certifying agency.

1 The Department of Housing and Community Development shall
2 develop regulations governing the issuance of certificates pursuant
3 to subdivision (g) of Section 7097 of the Government Code, and
4 shall develop forms 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 all corporations that are members of the
9 same controlled group of corporations shall be treated as employed
10 by a single taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) A failure to continue the seasonal employment of a qualified
2 employee who voluntarily fails to return to the seasonal
3 employment of the qualified taxpayer.
- 4 (ii) A failure to continue the seasonal employment of a qualified
5 employee who, before the close of the period referred to in
6 subparagraph (B) of paragraph (1), becomes disabled and unable
7 to perform the services of that seasonal employment, unless that
8 disability is removed before the close of that period and the
9 qualified taxpayer fails to offer seasonal employment to that
10 qualified employee.
- 11 (iii) A failure to continue the seasonal employment of a qualified
12 employee, if it is determined that the failure to continue the
13 seasonal employment was due to the misconduct (as defined in
14 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
15 Code of Regulations) of that qualified employee.
- 16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the qualified taxpayer.
- 19 (v) A failure to continue the seasonal employment of a qualified
20 employee, if that qualified employee is replaced by other qualified
21 employees so as to create a net increase in both the number of
22 seasonal employees and the hours of seasonal employment.
- 23 (C) For purposes of paragraph (1), the employment relationship
24 between the qualified taxpayer and a qualified employee shall not
25 be treated as terminated by either of the following:
 - 26 (i) By a transaction to which Section 381(a) of the Internal
27 Revenue Code applies, if the qualified employee continues to be
28 employed by the acquiring corporation.
 - 29 (ii) By reason of a mere change in the form of conducting the
30 trade or business of the qualified taxpayer, if the qualified
31 employee continues to be employed in that trade or business and
32 the qualified taxpayer retains a substantial interest in that trade or
33 business.
- 34 (3) Any increase in tax under paragraph (1) shall not be treated
35 as tax imposed by this part for purposes of determining the amount
36 of any credit allowable under this part.
- 37 (g) Rules similar to the rules provided in subsections (e) and
38 (h) of Section 46 of the Internal Revenue Code shall apply to both
39 of the following:

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

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

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

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

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

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

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

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

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the targeted tax area during
5 the taxable year for compensation, and the denominator of which
6 is the total compensation paid by the taxpayer in this state during
7 the taxable 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 (5) In the event that a credit carryover is allowable under
13 subdivision (i) for any taxable year after the targeted tax area
14 designation has expired or been revoked, the targeted tax area shall
15 be deemed to remain in existence for purposes of computing the
16 limitation specified in this subdivision.

17 (k) (1) For the 2014 calendar year, and each calendar year
18 thereafter, until January 1, 2019, the total aggregate amount of
19 credits allowed pursuant to this section shall not exceed the total
20 aggregate amount of credits claimed pursuant to this section in the
21 2013 calendar year, as determined by the Franchise Tax Board.

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

25 (l) (1) The Franchise Tax Board shall compile the certifications
26 submitted pursuant to paragraph (2) of subdivision (d) and shall
27 provide as a searchable database on its Internet Web site, for each
28 taxable year beginning on or after January 1, 2014, and before
29 January 1, 2019, the employer names, amounts of tax credit
30 claimed, and number of new jobs created for each taxable year
31 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
32 17053.74, 17053.90, 23622.7, 23622.8, 23646, and 23690.

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

37 (m) This section shall remain in effect only until December 1,
38 2019, and as of that date is repealed.

39 SEC. 10. Section 23646 of the Revenue and Taxation Code is
40 amended to read:

1 23646. (a) (1) For each taxable year beginning on or after
2 January 1, 1995, and before January 1, 2014, there shall be allowed
3 as a credit against the “tax” (as defined in Section 23036) to a
4 qualified taxpayer for hiring a qualified disadvantaged individual
5 or a qualified displaced employee during the taxable year for
6 employment in the LAMBRA. The credit shall be equal to the sum
7 of each of the following:

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

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

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

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

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

18 (2) (A) For each taxable year beginning on or after January 1,
19 2014, and before January 1, 2019, there shall be allowed as a credit
20 against the “net tax,” as defined in Section 17039, to a qualified
21 taxpayer for hiring a qualified disadvantaged individual or a
22 qualified displaced employee during the taxable year for
23 employment in the LAMBRA. The credit shall be equal to the sum
24 of each of the following:

25 (i) Ten percent of qualified wages in the first year of
26 employment.

27 (ii) Ten percent of qualified wages in the second year of
28 employment.

29 (iii) Thirty percent of qualified wages in the third year of
30 employment.

31 (iv) Forty percent of qualified wages in the fourth year of
32 employment.

33 (v) Fifty percent of qualified wages in the fifth year of
34 employment.

35 (B) The credit shall be allowed only with respect to qualified
36 wages paid for each net increase in qualified employees. A net
37 increase shall be determined by subtracting from the amount
38 determined in clause (i) the amount determined in clause (ii). For
39 purposes of this subparagraph, “qualified employees” means

1 qualified disadvantaged individuals and qualified displaced
2 employees.

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 LAMBRA from within
12 the state during the taxable year for which the credit is claimed,
13 the qualified taxpayer shall be allowed a credit with respect to
14 qualified wages for each net increase in qualified employees only
15 if the qualified taxpayer provides each employee at the previous
16 location or locations a written notice of transfer to the new location
17 with comparable compensation. *The California Workforce*
18 *Investment Board shall certify the notice and provide a copy to*
19 *the taxpayer.* The qualified taxpayer shall provide ~~self-certification~~
20 ~~with the~~ documentation when 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 employer
24 during the taxable year to qualified disadvantaged individuals or
25 qualified displaced employees that exceeds 200 percent of the
26 minimum wage and does not exceed 500 percent of the minimum
27 wage.

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

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

38 (D) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the LAMBRA expiration date.
40 However, wages paid or incurred with respect to qualified

1 disadvantaged individuals or qualified displaced employees who
2 are employed by the qualified taxpayer within the LAMBRA within
3 the 60-month period prior to the LAMBRA expiration date shall
4 continue to qualify for the credit under this section after the
5 LAMBRA expiration date, in accordance with all provisions of
6 this section applied as if the LAMBRA designation were still in
7 existence and binding.

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

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

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

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

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

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

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

27 (i) An individual who has been determined eligible for services
28 under the federal Workforce Investment Act of 1998 (29 U.S.C.
29 Sec. 2801 et seq.), or its successor.

30 (ii) Any voluntary or mandatory registrant under the Greater
31 Avenues for Independence Act of 1985 provided for pursuant to
32 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
33 3 of Division 9 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (vii) A recipient of:

37 (I) Federal Supplemental Security Income benefits.

38 (II) Aid to Families with Dependent Children.

39 (III) CalFresh benefits.

40 (IV) State and local general assistance.

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

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

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

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

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

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

29 (C) In the case of a qualified taxpayer that first commences
30 doing business in the LAMBRA during the taxable year, for
31 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
32 the divisors “2,000” and “12” shall be multiplied by a fraction, the
33 numerator of which is the number of months of the taxable year
34 that the taxpayer was doing business in the LAMBRA and the
35 denominator of which is 12.

36 (D) “Qualified taxpayer” shall not include employers that
37 provide temporary help services, as described in Code 561320 of
38 the North American Industry Classification System (NAICS)
39 published by the United States Office of Management and Budget,
40 2012 edition.

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

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

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

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

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

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

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

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

20 (1) Obtain from the Employment Development Department, as
21 permitted by federal law, the administrative entity of the local
22 county or city for the federal Workforce Investment Act of 1998
23 (29 U.S.C. Sec. 2801 et seq.), or its successor, the local county
24 GAIN office or social services agency, or the local government
25 administering the LAMBRA, a certification that provides that a
26 qualified disadvantaged individual or qualified displaced employee
27 meets the eligibility requirements specified in subparagraph (C)
28 of paragraph (4) of subdivision (b) or subparagraph (A) of
29 paragraph (6) of subdivision (b). The Employment Development
30 Department may provide preliminary screening and referral to a
31 certifying agency. The Department of Housing and Community
32 Development shall develop regulations governing the issuance of
33 certificates pursuant to Section 7114.2 of the Government Code
34 and shall develop forms for this purpose.

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

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

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

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

4 (2) For purposes of this subdivision, “controlled group of
5 corporations” has the meaning given to that term by Section
6 1563(a) of the Internal Revenue Code, except that both of the
7 following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (f) In the case of an organization to which Section 593 of the
34 Internal Revenue Code applies, and a regulated investment
35 company or a real estate investment trust subject to taxation under
36 this part, rules similar to the rules provided in subsections (e) and
37 (h) of Section 46 of the Internal Revenue Code shall apply.

38 (g) The credit shall be reduced by the credit allowed under
39 Section 23621. The credit shall also be reduced by the federal
40 credit allowed under Section 51 of the Internal Revenue Code.

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

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

11 (i) (1) The amount of credit otherwise allowed under this section
12 and Section 23645, including any prior year carryovers, that may
13 reduce the “tax” for the taxable year shall not exceed the amount
14 of tax that would be imposed on the taxpayer’s business income
15 attributed to a LAMBRA determined as if that attributed income
16 represented all of the income of the taxpayer subject to tax under
17 this part.

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

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

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

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

1 the total compensation paid by the taxpayer in this state during the
2 taxable year.

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

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

11 (k) (1) For the 2014 calendar year, and each calendar year
12 thereafter, until January 1, 2019, the total aggregate amount of
13 credits allowed pursuant to this section shall not exceed the total
14 aggregate amount of credits claimed pursuant to this section in the
15 2013 calendar year, as determined by the Franchise Tax Board.

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

19 (l) (1) The Franchise Tax Board shall compile the certifications
20 submitted pursuant to paragraph (2) of subdivision (c) and shall
21 provide as a searchable database on its Internet Web site, for each
22 taxable year beginning on or after January 1, 2014, and before
23 January 1, 2019, the employer names, amounts of tax credit
24 claimed, and number of new jobs created for each taxable year
25 pursuant to this section, Sections 17053.34, 17053.46, 17053.47,
26 17053.74, 17053.90, 23622.7, 23622.8, 23634, and 23690.

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

31 (m) This section shall remain in effect only until December 1,
32 2019, and as of that date is repealed.

33 SEC. 11. Section 23690 is added to the Revenue and Taxation
34 Code, to read:

35 23690. (a) (1) For each taxable year beginning on or after
36 January 1, 2014, and before January 1, 2019, there shall be allowed
37 to a qualified taxpayer that hires a qualified full-time employee
38 and pays or incurs qualified wages attributable to work performed
39 by the qualified full-time employee in an enterprise zone during

1 the taxable year a credit against the “tax,” as defined by Section
2 23036, in an amount calculated under this section.

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

7 (3) If a qualified taxpayer relocated to an enterprise zone from
8 within the state during the taxable year for which the credit is
9 claimed, the qualified taxpayer shall be allowed a credit with
10 respect to qualified wages for each net increase in qualified
11 employees only if the qualified taxpayer provides each employee
12 at the previous location or locations a written notice of transfer to
13 the new location with comparable compensation. *The California*
14 *Workforce Investment Board shall certify the notice and provide*
15 *a copy to the taxpayer.* The qualified taxpayer shall provide
16 ~~self-certification with~~ *the* documentation when submitting a
17 voucher application.

18 (b) For purposes of this section:

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

21 (A) For the first year of employment of a qualified employee,
22 10 percent of qualified wages paid during the taxable year.

23 (B) For the second year of employment of a qualified employee,
24 30 percent of qualified wages paid during the taxable year.

25 (C) For the third year of employment of a qualified employee,
26 50 percent of qualified wages paid during the taxable year.

27 (D) For the fourth year of employment of a qualified employee,
28 30 percent of qualified wages paid during the taxable year.

29 (E) For the fifth year of employment of a qualified employee,
30 10 percent of qualified wages paid during the taxable year.

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

1 (3) “Base year” means 2013, or in the case of a qualified
2 taxpayer that first hires a qualified full-time employee in this state
3 in a taxable year beginning on or after January 1, 2015, the taxable
4 year immediately preceding the taxable year in which the qualified
5 employee was hired.

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

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

11 (ii) Wages received during the 60-month period beginning with
12 the first day the qualified employee commences employment with
13 the qualified taxpayer.

14 (B) Except as provided in paragraph (2) of subdivision (m),
15 qualified wages do not include any wages paid or incurred by the
16 qualified taxpayer on or after the zone expiration date.

17 (5) “Minimum wage” means the wage established pursuant to
18 Chapter 1 (commencing with Section 1171) of Part 4 of Division
19 2 of the Labor Code.

20 (6) “Zone expiration date” means the date that the enterprise
21 zone designation expires, is no longer binding, or becomes
22 inoperative.

23 (7) “Acquired” includes any gift, inheritance, transfer incident
24 to divorce, or any other transfer, whether or not for consideration.

25 (8) (A) “Qualified full-time employee” means an individual
26 who meets all of the following requirements:

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

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

34 (iv) 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 (v) Satisfies either of the following conditions:

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

- 1 (II) Is a salaried employee and was paid compensation during
2 the taxable year for full-time employment, within the meaning of
3 Section 515 of the Labor Code, by the qualified taxpayer.
- 4 (vi) Is any of the following:
 - 5 (I) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a person eligible for services under the federal Workforce
8 Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), or its
9 successor, who is receiving, or is eligible to receive, subsidized
10 employment, training, or services funded by the federal Workforce
11 Investment Act of 1998, or its successor.
 - 12 (II) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible to be a voluntary or mandatory registrant under
15 the Greater Avenues for Independence Act of 1985 (GAIN)
16 provided for pursuant to Article 3.2 (commencing with Section
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
18 Institutions Code, or its successor.
 - 19 (III) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 an economically disadvantaged individual 14 years of age or older.
 - 22 (IV) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 a dislocated worker who meets any of the following:
 - 25 (ia) Has been terminated or laid off or has received a notice of
26 termination or layoff from employment, is eligible for or has
27 exhausted entitlement to unemployment insurance benefits, and
28 is unlikely to return to his or her previous industry or occupation.
 - 29 (ib) Has been terminated or has received a notice of termination
30 of employment as a result of any permanent closure or any
31 substantial layoff at a plant, facility, or enterprise, including an
32 individual who has not received written notification but whose
33 employer has made a public announcement of the closure or layoff.
 - 34 (ic) Is long-term unemployed and has limited opportunities for
35 employment or reemployment in the same or a similar occupation
36 in the area in which the individual resides, including an individual
37 55 years of age or older who may have substantial barriers to
38 employment by reason of age.
 - 39 (id) Was self-employed, including farmers and ranchers, and is
40 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 (ie) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned under
5 the federal Defense Base Closure and Realignment Act of 1990.

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

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

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

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

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

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

- 30 (ia) Federal Supplemental Security Income benefits.
- 31 (ib) Aid to Families with Dependent Children, or its successor.
- 32 (ic) CalFresh benefits.
- 33 (id) State and local general assistance.

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

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was

1 a resident of a targeted employment area, as defined in Section
2 7072 of the Government Code.

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

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

10 (B) An individual may only be considered a qualified full-time
11 employee for the period of time commencing with the date the
12 individual is first employed by the qualified taxpayer and ending
13 60 months thereafter.

14 (C) Priority for employment shall be provided to an individual
15 who is enrolled in a qualified program under the federal Workforce
16 Investment Act of 1998, or its successor, or the Greater Avenues
17 for Independence Act of 1985 or who is eligible as a member of
18 a targeted group under the Work Opportunity Tax Credit (Section
19 51 of the Internal Revenue Code), or its successor.

20 (9) (A) "Qualified taxpayer" means a corporation engaged in
21 a trade or business within an enterprise zone that meets both of
22 the following requirements during the taxable year:

23 (i) Pays or incurs qualified wages.

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

25 (B) In the case of any pass-thru entity, the determination of
26 whether a taxpayer is a qualified taxpayer under this section shall
27 be made at the entity level and any credit under this section or
28 Section 17053.90 shall be allowed to the pass-thru entity and
29 passed through to the partners and shareholders in accordance with
30 applicable provisions of this part or Part 10 (commencing with
31 Section 17001). For purposes of this subdivision, the term
32 "pass-thru entity" means any partnership or "S" corporation.

33 (C) "Qualified taxpayer" shall not include employers that
34 provide temporary help services, as described in Code 561320 of
35 the North American Industry Classification System (NAICS)
36 published by the United States Office of Management and Budget,
37 2012 edition.

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

1 (11) “Annual full-time equivalent” means all of the following:

2 (A) Either of the following:

3 (i) In the case of a full-time employee paid hourly qualified
4 wages, “annual full-time equivalent” means the total number of
5 hours worked for the qualified taxpayer by the employee, not to
6 exceed 2,000 hours per employee, divided by 2,000.

7 (ii) In the case of a salaried full-time employee, “annual full-time
8 equivalent” means the total number of weeks worked for the
9 qualified taxpayer by the employee, divided by 52.

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

14 (C) In determining whether the qualified taxpayer has first
15 commenced doing business in this state during the taxable year,
16 subdivision (g) of Section 24416.20, without application of
17 paragraph (7) of that subdivision, shall apply.

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

20 (1) (A) (i) The net increase in full-time employees shall be
21 determined on an annual full-time equivalent basis.

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

24 (B) The net increase in the total number of full-time employees
25 shall be determined by subtracting the amount determined under
26 clause (ii) from the amount determined under clause (i). If the
27 amount determined under clause (ii) is equal to or exceeds the
28 amount determined under clause (i), the amount determined under
29 this subparagraph shall be zero.

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

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

37 (2) For qualified taxpayers that first commence doing business
38 in this state during the taxable year, the number of full-time
39 employees under clause (ii) of subparagraph (B) of paragraph (1)
40 of this subdivision for the base year shall be zero.

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

9 (d) (1) Any qualified wages taken into account under this
10 section in computing this credit shall not be taken into account in
11 computing any other credit otherwise allowable under this part or
12 Part 10 (commencing with Section 17001).

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

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

19 (A) Obtain from the Employment Development Department,
20 as permitted by federal law, the local county or city Workforce
21 Investment Act of 1998 administrative entity, the local county
22 GAIN office or social services agency, or the local government
23 administering the enterprise zone, a certification that provides that
24 a qualified employee meets the eligibility requirements specified
25 in clause (vi) of subparagraph (A) of paragraph (8) of subdivision
26 (b). The Employment Development Department may provide
27 preliminary screening and referral to a certifying agency. The
28 Employment Development Department shall develop a form for
29 this purpose. The Department of Housing and Community
30 Development shall develop regulations governing the issuance of
31 certificates by local governments pursuant to subdivision (a) of
32 Section 7086 of the Government Code.

33 (B) Retain a copy of the certification and provide it to the
34 Franchise Tax Board annually.

35 (2) The credit allowed by this section may only be claimed on
36 an original or amended return of the qualified taxpayer filed no
37 later than one year after the original due date, without regard to
38 extension, of the qualified taxpayer's return for the year for which
39 the credit is claimed.

40 (f) (1) For purposes of this section:

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

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

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

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

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

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

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

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

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

32 (h) For purposes of this section, “enterprise zone” means an
33 area designated as an enterprise zone pursuant to Chapter 12.8
34 (commencing with Section 7070) of Division 7 of Title 1 of the
35 Government Code.

36 (i) (1) The credit allowable under this section shall be reduced
37 by the credit allowed under Section 23646 claimed for the same
38 employee. The credit shall also be reduced by the federal credit
39 allowed under Section 51 of the Internal Revenue Code, as
40 applicable for federal purposes.

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

5 (j) In the case where the credit allowed by this section exceeds
6 the “tax,” the excess may be carried over to reduce the “tax” in
7 the following year, and the succeeding six years if necessary, until
8 exhausted.

9 (k) (1) The amount of the credit otherwise allowed under this
10 section and Section 17053.90, including any credit carryover from
11 prior years, that may reduce the “tax” for the taxable year shall
12 not exceed the amount of tax that would be imposed on the
13 qualified taxpayer’s business income attributable to the enterprise
14 zone determined as if that attributable income represented all of
15 the income of the qualified taxpayer subject to tax under this part.

16 (2) Attributable income shall be that portion of the qualified
17 taxpayer’s California source business income that is apportioned
18 to the enterprise zone. For that purpose, the qualified taxpayer’s
19 business income attributable to sources in this state first shall be
20 determined in accordance with Chapter 17 (commencing with
21 Section 25101) of Part 11. That business income shall be further
22 apportioned to the enterprise zone in accordance with Article 2
23 (commencing with Section 25120) of Chapter 17 of Part 11,
24 modified for purposes of this section in accordance with paragraph
25 (3).

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

31 (A) The property factor is a fraction, the numerator of which is
32 the average value of the qualified taxpayer’s real and tangible
33 personal property owned or rented and used in the enterprise zone
34 during the taxable year, and the denominator of which is the
35 average value of all the qualified taxpayer’s real and tangible
36 personal property owned or rented and used in this state during
37 the taxable year.

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

1 of which is the total compensation paid by the qualified taxpayer
2 in this state during the taxable year.

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

7 (l) (1) The Franchise Tax Board shall compile the certifications
8 submitted pursuant to subparagraph (B) of paragraph (1) of
9 subdivision (e) and shall provide as a searchable database on its
10 Internet Web site, for each taxable year beginning on or after
11 January 1, 2014, and before January 1, 2019, the employer names,
12 amounts of tax credit claimed, and number of new jobs created
13 for each taxable year pursuant to this section, Sections 17053.34,
14 17053.46, 17053.47, 17053.74, 17053.90, 23622.7, 23622.8, 23634,
15 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 (2) Notwithstanding paragraph (1) of this subdivision, this
23 section shall remain operative for any qualified taxpayer with
24 respect to any qualified full-time employee after the zone expiration
25 date for the remaining period, if any, of the 60-month period after
26 the original date of hiring of an otherwise qualified full-time
27 employee and any wages paid or incurred with respect to those
28 qualified full-time employees after the zone expiration date shall
29 be treated as qualified wages under this section, provided the
30 employee satisfies any other requirements of paragraphs (4) and
31 (8) of subdivision (b), as if the enterprise zone designation were
32 still in existence and binding.

33 SEC. 12. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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

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