

AMENDED IN SENATE AUGUST 26, 2015

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Ting

January 16, 2015

An act to amend Sections 17024.5, 17053.46, 17053.47, 17053.74, 17088, 17144, 17215, 18155, 19138, 19141.5, 19164, 19167, 19183, 19772, 23622.7, 23622.8, 23646, 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, to add Sections 17240, 17241, 17323, 19131.5, 24345.5, 24454, and 24459 to, and to repeal Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 154, as amended, Ting. Taxation: federal conformity.

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2010, the specified date of those referenced Internal Revenue Code sections is January 1, 2009, unless otherwise

specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, extension of time for the payment of taxes, deductions for annual fees on branded prescription pharmaceutical manufacturers and importers, and penalty amounts related to understatements of tax or the failure to file specified returns or include specified information on returns.

This bill would also specify various dates on which specified provisions apply and repeal obsolete provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

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

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

SECTION 1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms "Internal Revenue Code," "Internal Revenue Code of 1954," or "Internal Revenue Code of 1986," for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991.....	January 1, 1991
(I) For taxable years beginning on or after	

1 January 1, 1992, and on or before December
2 31, 1992..... January 1, 1992
3 (J) For taxable years beginning on or after
4 January 1, 1993, and on or before December
5 31, 1996..... January 1, 1993
6 (K) For taxable years beginning on or after
7 January 1, 1997, and on or before December
8 31, 1997..... January 1, 1997
9 (L) For taxable years beginning on or after
10 January 1, 1998, and on or before December
11 31, 2001..... January 1, 1998
12 (M) For taxable years beginning on or after
13 January 1, 2002, and on or before December
14 31, 2004..... January 1, 2001
15 (N) For taxable years beginning on or after
16 January 1, 2005, and on or before December
17 31, 2009..... January 1, 2005
18 (O) For taxable years beginning on or after
19 January 1, 2010, and on or before December
20 31, 2014..... January 1, 2009
21 (P) For taxable years beginning on or after
22 January 1, 2015..... January 1, 2015
23

24 (2) (A) Unless otherwise specifically provided, for federal laws
25 enacted on or after January 1, 1987, and on or before the specified
26 date for the taxable year, uncodified provisions that relate to
27 provisions of the Internal Revenue Code that are incorporated for
28 purposes of this part shall be applicable to the same taxable years
29 as the incorporated provisions.

30 (B) In the case where Section 901 of the Economic Growth and
31 Tax Relief Act of 2001 (Public Law 107-16) applies to any
32 provision of the Internal Revenue Code that is incorporated for
33 purposes of this part, Section 901 of the Economic Growth and
34 Tax Relief Act of 2001 shall apply for purposes of this part in the
35 same manner and to the same taxable years as it applies for federal
36 income tax purposes.

37 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
38 H (Repeal of Expired or Obsolete Provisions) of the Revenue
39 Reconciliation Act of 1990 (Public Law 101-508) modified
40 numerous provisions of the Internal Revenue Code and provisions

1 of prior federal acts, some of which are incorporated by reference
2 into this part. Unless otherwise provided, the provisions described
3 in the preceding sentence, to the extent that they modify provisions
4 that are incorporated into this part, are declaratory of existing law
5 and shall be applied in the same manner and for the same periods
6 as specified in the Revenue Reconciliation Act of 1990.

7 (b) Unless otherwise specifically provided, when applying any
8 provision of the Internal Revenue Code for purposes of this part,
9 a reference to any of the following is not applicable for purposes
10 of this part:

11 (1) Except as provided in Chapter 4.5 (commencing with Section
12 23800) of Part 11 of Division 2, an electing small business
13 corporation, as defined in Section 1361(b) of the Internal Revenue
14 Code.

15 (2) Domestic international sales corporations (DISC), as defined
16 in Section 992(a) of the Internal Revenue Code.

17 (3) A personal holding company, as defined in Section 542 of
18 the Internal Revenue Code.

19 (4) A foreign personal holding company, as defined in Section
20 552 of the Internal Revenue Code.

21 (5) A foreign investment company, as defined in Section 1246(b)
22 of the Internal Revenue Code.

23 (6) A foreign trust, as defined in Section 679 of the Internal
24 Revenue Code.

25 (7) Foreign income taxes and foreign income tax credits.

26 (8) Section 911 of the Internal Revenue Code, relating to citizens
27 or residents of the United States living abroad.

28 (9) A foreign corporation, except that Section 367 of the Internal
29 Revenue Code shall be applicable.

30 (10) Federal tax credits and carryovers of federal tax credits.

31 (11) Nonresident aliens.

32 (12) Deduction for personal exemptions, as provided in Section
33 151 of the Internal Revenue Code.

34 (13) The tax on generation-skipping transfers imposed by
35 Section 2601 of the Internal Revenue Code.

36 (14) The tax, relating to estates, imposed by Section 2001 or
37 2101 of the Internal Revenue Code.

38 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
39 and Section 172 of the Tax Reform Act of 1984 (Public Law

1 98-369), relating to treatment of debt instruments, is not applicable
2 for taxable years beginning before January 1, 1987.

3 (2) The provisions contained in Public Law 99-121, relating to
4 the treatment of debt instruments, is not applicable for taxable
5 years beginning before January 1, 1987.

6 (3) For each taxable year beginning on or after January 1, 1987,
7 the provisions referred to by paragraphs (1) and (2) shall be
8 applicable for purposes of this part in the same manner and with
9 respect to the same obligations as the federal provisions, except
10 as otherwise provided in this part.

11 (d) When applying the Internal Revenue Code for purposes of
12 this part, regulations promulgated in final form or issued as
13 temporary regulations by “the secretary” shall be applicable as
14 regulations under this part to the extent that they do not conflict
15 with this part or with regulations issued by the Franchise Tax
16 Board.

17 (e) Whenever this part allows a taxpayer to make an election,
18 the following rules shall apply:

19 (1) A proper election filed with the Internal Revenue Service
20 in accordance with the Internal Revenue Code or regulations issued
21 by “the secretary” shall be deemed to be a proper election for
22 purposes of this part, unless otherwise provided in this part or in
23 regulations issued by the Franchise Tax Board.

24 (2) A copy of that election shall be furnished to the Franchise
25 Tax Board upon request.

26 (3) (A) Except as provided in subparagraph (B), in order to
27 obtain treatment other than that elected for federal purposes, a
28 separate election shall be filed at the time and in the manner
29 required by the Franchise Tax Board.

30 (B) (i) If a taxpayer makes a proper election for federal income
31 tax purposes prior to the time that taxpayer becomes subject to the
32 tax imposed under this part or Part 11 (commencing with Section
33 23001), that taxpayer is deemed to have made the same election
34 for purposes of the tax imposed by this part, Part 10.2 (commencing
35 with Section 18401), and Part 11 (commencing with Section
36 23001), as applicable, and that taxpayer may not make a separate
37 election for California tax purposes unless that separate election
38 is expressly authorized by this part, Part 10.2 (commencing with
39 Section 18401), or Part 11 (commencing with Section 23001), or
40 by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 11 (commencing with Section 23001), that taxpayer may not make a separate California election for purposes of this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or the regulation issued by “the secretary” authorizing an election for federal income tax purposes apply for purposes of this part, Part 10.2 (commencing with Section 18401) or Part 11 (commencing with Section 23001).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to “adjusted gross income” shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) (A) Except as provided in subparagraph (B), references to “adjusted gross income” for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(B) In the case of registered domestic partners and former registered domestic partners, adjusted gross income, for the purposes of computing limitations based upon adjusted gross income, shall mean the adjusted gross income on a federal tax return computed as if the registered domestic partner or former registered domestic partner was treated as a spouse or former spouse, respectively, for federal income tax purposes, and used

1 the same filing status that was used on the state tax return for the
2 same taxable year.

3 (3) Any reference to “subtitle” or “chapter” shall mean this part.

4 (4) The provisions of Section 7806 of the Internal Revenue
5 Code, relating to construction of title, shall apply.

6 (5) Any provision of the Internal Revenue Code that becomes
7 operative on or after the specified date for that taxable year shall
8 become operative on the same date for purposes of this part.

9 (6) Any provision of the Internal Revenue Code that becomes
10 inoperative on or after the specified date for that taxable year shall
11 become inoperative on the same date for purposes of this part.

12 (7) Due account shall be made for differences in federal and
13 state terminology, effective dates, substitution of “Franchise Tax
14 Board” for “secretary” when appropriate, and other obvious
15 differences.

16 (8) Except as otherwise provided, any reference to Section 501
17 of the Internal Revenue Code shall be interpreted to also refer to
18 Section 23701.

19 (i) Any reference to a specific provision of the Internal Revenue
20 Code shall include modifications of that provision, if any, in this
21 part.

22 SEC. 2. Section 17053.46 of the Revenue and Taxation Code
23 is amended to read:

24 17053.46. (a) For each taxable year beginning on or after
25 January 1, 1995, there shall be allowed as a credit against the “net
26 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
27 a qualified disadvantaged individual or a qualified displaced
28 employee during the taxable year for employment in the LAMBRA.
29 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) CalFresh benefits.

18 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) The qualified wages for any taxable year shall be apportioned
39 between the estate or trust and the beneficiaries on the basis of the
40 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) The credit shall be reduced by the credit allowed under
5 Section 17053.7. The credit shall also be reduced by the federal
6 credit allowed under Section 51 of the Internal Revenue Code, as
7 amended by the Emergency Economic Stabilization Act of 2008
8 (Public Law 110-343).

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

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

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

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

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

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

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

12 (4) The portion of any credit remaining, if any, after application
13 of this subdivision, shall be carried over to succeeding taxable
14 years, if necessary, until the credit is exhausted, as if it were an
15 amount exceeding the "net tax" for the taxable year, as provided
16 in subdivision (h). However, the portion of any credit remaining
17 for carryover to taxable years beginning on or after January 1,
18 2014, if any, after application of this subdivision, shall be carried
19 over only to the succeeding 10 taxable years if necessary, until the
20 credit is exhausted, as if it were an amount exceeding the "net tax"
21 for the taxable year, as provided in subdivision (h).

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

26 (k) (1) Except as provided in paragraph (2), this section shall
27 cease to be operative on January 1, 2014, and shall be repealed on
28 December 1, 2019. A credit shall not be allowed under this section
29 with respect to an employee who first commences employment
30 with a qualified taxpayer on or after January 1, 2014.

31 (2) This section shall continue to apply with respect to qualified
32 disadvantaged individuals or qualified displaced employees who
33 are employed by the qualified taxpayer within the LAMBRA within
34 the 60-month period immediately preceding January 1, 2014, and
35 qualified wages paid or incurred with respect to those qualified
36 disadvantaged individuals or qualified displaced employees shall
37 continue to qualify for the credit under this section for taxable
38 years beginning on or after January 1, 2014, in accordance with
39 this section, as amended by the act adding this subdivision.

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

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

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

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

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

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the manufacturing enhancement area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the manufacturing enhancement area within the 60-month period prior to the manufacturing enhancement

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

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

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

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

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

19 (A) (i) At least 90 percent of whose 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
22 manufacturing enhancement area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 between a qualified disadvantaged individual and a qualified
2 taxpayer shall not be treated as terminated if the qualified
3 disadvantaged individual continues to be employed in that trade
4 or business.

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

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

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

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

37 (ii) A termination of employment of a qualified disadvantaged
38 individual who, before the close of the period referred to in
39 subparagraph (A) of paragraph (1), becomes disabled to perform
40 the services of that employment, unless that disability is removed

1 before the close of that period and the taxpayer fails to offer
2 reemployment to that individual.

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

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

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

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

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

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

26 (iii) A failure to continue the seasonal employment of a qualified
27 disadvantaged individual, if it is determined that the failure to
28 continue the seasonal employment 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 qualified disadvantaged
31 individual.

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

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

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

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

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

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

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

18 (f) The credit shall be reduced by the credit allowed under
19 Section 17053.7. The credit shall also be reduced by the federal
20 credit allowed under Section 51 of the Internal Revenue Code, as
21 amended by the Emergency Economic Stabilization Act of 2008
22 (Public Law 110-343).

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

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

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

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

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

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

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

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, if necessary, until the credit is exhausted, as if it were an
31 amount exceeding the "net tax" for the taxable year, as provided
32 in subdivision (g). However, the portion of any credit remaining
33 for carryover to taxable years beginning on or after January 1,
34 2014, if any, after application of this subdivision, shall be carried
35 over only to the succeeding 10 taxable years if necessary, until the
36 credit is exhausted, as if it were an amount exceeding the "net tax"
37 for the taxable year, as provided in subdivision (g).

38 (i) If the taxpayer is allowed a credit pursuant to this section for
39 qualified wages paid or incurred, only one credit shall be allowed

1 to the taxpayer under this part with respect to any wage consisting
2 in whole or in part of those qualified wages.

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

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

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

19 (k) (1) Except as provided in paragraph (2), this section shall
20 cease to be operative for taxable years beginning on or after January
21 1, 2014, and shall be repealed on December 1, 2019.

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

31 SEC. 4. Section 17053.74 of the Revenue and Taxation Code
32 is amended to read:

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

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

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

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

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

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

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

13 (iv) Is any of the following:

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

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

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

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

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

38 (bb) Has been terminated or has received a notice of termination
39 of employment as a result of any permanent closure or any
40 substantial layoff at a plant, facility, or enterprise, including an

1 individual who has not received written notification but whose
2 employer has made a public announcement of the closure or layoff.

3 (cc) Is long-term unemployed and has limited opportunities for
4 employment or reemployment in the same or a similar occupation
5 in the area in which the individual resides, including an individual
6 55 years of age or older who may have substantial barriers to
7 employment by reason of age.

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

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

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

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

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

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

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

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

39 (aa) Federal Supplemental Security Income benefits.

40 (bb) Aid to Families with Dependent Children.

1 (cc) CalFresh benefits.

2 (dd) State and local general assistance.

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

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

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

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

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

24 (5) "Taxpayer" means a person or entity engaged in a trade or
25 business within an enterprise zone designated pursuant to Chapter
26 12.8 (commencing with Section 7070) of the Government Code.

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

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

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

1 The Department of Housing and Community Development shall
2 develop regulations governing the issuance of certificates by local
3 governments pursuant to subdivision (a) of Section 7086 of the
4 Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 taxpayer fails to offer seasonal employment to that qualified
2 employee.

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

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

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

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

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

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

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

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

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

35 (h) The credit allowable under this section shall be reduced by
36 the credit allowed under Sections 17053.10, 17053.17, and
37 17053.46 claimed for the same employee. The credit shall also be
38 reduced by the federal credit allowed under Section 51 of the
39 Internal Revenue Code, as amended by the Economic Stabilization
40 Act of 2008 (Public Law 110-343).

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 (i) or (j).

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

11 (j) (1) The amount of the credit otherwise allowed under this
12 section and Section 17053.70, including any credit carryover from
13 prior years, that may reduce the “net tax” for the taxable year shall
14 not exceed the amount of tax which would be imposed on the
15 taxpayer’s business income attributable to the enterprise zone
16 determined as if that attributable income represented all of the
17 income of the taxpayer subject to tax under 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 enterprise zone. For that purpose, the taxpayer’s business income
21 attributable to sources in this state first shall be determined in
22 accordance with Chapter 17 (commencing with Section 25101) of
23 Part 11. That business income shall be further apportioned to the
24 enterprise zone in accordance with Article 2 (commencing with
25 Section 25120) of Chapter 17 of Part 11, modified for purposes
26 of this section in accordance with paragraph (3).

27 (3) Business income shall be apportioned to the enterprise zone
28 by multiplying the total California business income of the taxpayer
29 by a fraction, the numerator of which is the property factor plus
30 the payroll factor, and the denominator of which is two. For
31 purposes of this 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 enterprise zone during
35 the 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 enterprise zone during
40 the taxable year for compensation, and the denominator of which

1 is the total compensation paid by the taxpayer in this state during
2 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, if necessary, until the credit is exhausted, as if it were an
6 amount exceeding the “net tax” for the taxable year, as provided
7 in subdivision (i). However, the portion of any credit remaining
8 for carryover to taxable years beginning on or after January 1,
9 2014, if any, after application of this subdivision, shall be carried
10 over only to the succeeding 10 taxable years if necessary, until the
11 credit is exhausted, as if it were an amount exceeding the “net tax”
12 for the taxable year, as provided in subdivision (i).

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

16 (l) (1) Except as provided in paragraph (2), this section shall
17 cease to be operative on January 1, 2014, and shall be repealed on
18 December 1, 2019. A credit shall not be allowed under this section
19 with respect to an employee who first commences employment
20 with a taxpayer on or after January 1, 2014.

21 (2) This section shall continue to apply with respect to qualified
22 employees who are employed by the taxpayer within the enterprise
23 zone within the 60-month period immediately preceding January
24 1, 2014, and qualified wages paid or incurred with respect to those
25 qualified employees shall continue to qualify for the credit under
26 this section for taxable years beginning on or after January 1, 2014,
27 in accordance with this section, as amended by the act adding this
28 subdivision.

29 SEC. 5. Section 17088 of the Revenue and Taxation Code is
30 amended to read:

31 17088. (a) Subchapter M of Chapter 1 of Subtitle A of the
32 Internal Revenue Code, relating to regulated investment companies
33 and real estate investment trusts, shall apply, except as otherwise
34 provided.

35 (b) Section 17145 shall apply in lieu of Section 852(b)(5) of the
36 Internal Revenue Code, relating to exempt-interest dividends.

37 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,
38 relating to treatment by shareholders of undistributed capital gains,
39 shall not apply.

(2) Section 852(g)(1)(A) of the Internal Revenue Code is modified by substituting the phrase “subdivision (a) of Section 17145” for the phrase “the first sentence of subsection (b)(5)” contained therein.

SEC. 6. Section 17131.7 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 17131.12 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 17131.14 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 17134.1 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 17144 of the Revenue and Taxation Code is amended to read:

17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “(\$9)” in lieu of “(\$3).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(f) Section 108(i) of the Internal Revenue Code, relating to deferral and ratable inclusion of income arising from business

1 indebtedness discharged by the reacquisition of a debt instrument,
2 shall not apply.

3 SEC. 11. Section 17201.1 of the Revenue and Taxation Code
4 is repealed.

5 SEC. 12. Section 17215 of the Revenue and Taxation Code is
6 amended to read:

7 17215. (a) Section 220(a) of the Internal Revenue Code,
8 relating to deduction allowed, is modified to provide that the
9 amount allowed as a deduction shall be an amount equal to the
10 amount allowed to that individual as a deduction under Section
11 220 of the Internal Revenue Code, relating to medical savings
12 accounts, on the federal income tax return filed for the same taxable
13 year by that individual.

14 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
15 additional tax on distributions not used for qualified medical
16 expenses, is modified by substituting “12.5 percent” in lieu of “20
17 percent.”

18 (c) The amendments made to this section by the act adding this
19 subdivision shall apply to disbursements made during taxable years
20 beginning on or after January 1, 2016.

21 SEC. 13. Section 17240 is added to the Revenue and Taxation
22 Code, to read:

23 17240. The fee imposed by Section 9008 of the Patient
24 Protection and Affordable Care Act (Public Law 111-148), shall
25 be considered a tax described in Section 275(a)(6) of the Internal
26 Revenue Code.

27 SEC. 14. Section 17241 is added to the Revenue and Taxation
28 Code, to read:

29 17241. (a) Section 213(a) of the Internal Revenue Code,
30 relating to allowance of deduction, is modified by substituting “7.5
31 percent” for “10 percent.”

32 (b) Section 213(f) of the Internal Revenue Code, relating to
33 special rule for 2013, 2014, 2015, and 2016, shall not apply.

34 SEC. 15. Section 17280.1 of the Revenue and Taxation Code
35 is repealed.

36 SEC. 16. Section 17322.1 of the Revenue and Taxation Code
37 is repealed.

38 SEC. 17. Section 17323 is added to the Revenue and Taxation
39 Code, to read:

1 17323. Section 382(n) of the Internal Revenue Code, relating
2 to special rule for certain ownership changes, shall not apply.

3 SEC. 18. Section 18155 of the Revenue and Taxation Code is
4 amended to read:

5 18155. A deduction shall not be allowed for capital loss
6 carrybacks provided by Section 1212 of the Internal Revenue Code,
7 relating to capital loss carrybacks and carryovers.

8 SEC. 19. Section 19131.5 is added to the Revenue and Taxation
9 Code, to read:

10 19131.5. (a) Section 6164 of the Internal Revenue Code,
11 relating to extension of time for payment of taxes by corporations
12 expecting carrybacks, shall apply, except as otherwise provided.

13 (b) (1) Section 6164 of the Internal Revenue Code is modified
14 by substituting the phrase “Secretary or the Franchise Tax Board”
15 for the word “Secretary” in each place it appears.

16 (2) Section 6164(a) of the Internal Revenue Code is modified
17 by substituting the phrase “Part 11 (commencing with Section
18 23001)” in lieu of the phrase “subtitle A.”

19 (3) Section 6164(b) of the Internal Revenue Code, relating to
20 contents of statement, is modified by substituting the phrase
21 “Section 24416.20” in lieu of the phrase “Section 172(b).”

22 (4) Section 6164(d)(2) of the Internal Revenue Code shall not
23 apply.

24 (5) Section 6164(h) of the Internal Revenue Code, relating to
25 jeopardy, is modified as follows:

26 (A) By substituting the phrase “he or the Franchise Tax Board”
27 for the word “he” in each place it appears.

28 (B) By substituting the phrase “him or the Franchise Tax Board”
29 for the word “him” in each place it appears.

30 (6) Section 6164(i) of the Internal Revenue Code, relating to
31 consolidated returns, is modified by substituting the phrase
32 “combined report” in lieu of the phrase “consolidated return” in
33 each place it appears.

34 SEC. 20. Section 19138 of the Revenue and Taxation Code is
35 amended to read:

36 19138. (a) (1) A taxpayer subject to the tax imposed under
37 Part 11 (commencing with Section 23001) with an understatement
38 of tax for any taxable year shall be subject to the penalty imposed
39 under this section if that understatement exceeds the greater of the
40 following:

1 (A) One million dollars (\$1,000,000).

2 (B) Twenty percent of the tax shown on an original return or
3 shown on an amended return filed on or before the original or
4 extended due date of the return for the taxable year.

5 (2) For taxpayers that are required to be included in a combined
6 report under Section 25101 or authorized to be included in a
7 combined report under Section 25101.15, the threshold amount
8 prescribed in subparagraph (A) or subparagraph (B) of paragraph
9 (1) shall apply to the aggregate amount of tax liability under Part
10 11 (commencing with Section 23001) for all taxpayers that are
11 required to be or authorized to be included in a combined report.

12 (b) (1) The penalty under this section shall be an amount equal
13 to 20 percent of any understatement of tax. For purposes of this
14 section, “understatement of tax” means the amount by which the
15 tax imposed by Part 11 (commencing with Section 23001) exceeds
16 the amount of tax shown on an original return or shown on an
17 amended return filed on or before the original or extended due
18 date of the return for the taxable year.

19 (2) For any taxable year beginning before January 1, 2008, the
20 amount of tax paid on or before May 31, 2009, and shown on an
21 amended return filed on or before May 31, 2009, shall be treated
22 as the amount of tax shown on an original return for purposes of
23 this section.

24 (3) The amount of additional tax shown on the first amended
25 return reflecting a proper election under Section 338 of the Internal
26 Revenue Code, relating to certain stock purchases treated as asset
27 acquisitions, shall be treated as if that amount was included in the
28 amount of tax shown on an original return for purposes of this
29 section.

30 (c) The penalty imposed by this section shall be in addition to
31 any other penalty imposed under Part 11 (commencing with Section
32 23001) or this part.

33 (d) Article 3 (commencing with Section 19031), relating to
34 deficiency assessments, shall not apply with respect to the
35 assessment or collection of any penalty imposed by subdivision
36 (a).

37 (e) A refund or credit for any amounts paid to satisfy a penalty
38 imposed under this section may be allowed only on the grounds
39 that the amount of the penalty was not properly computed by the
40 Franchise Tax Board.

1 (f) No penalty shall be imposed under this section on any
2 understatement to the extent that the understatement is attributable
3 to any of the following:

4 (1) (A) A change in law that is enacted, promulgated, issued,
5 or becomes final after the earlier of either of the following dates:

6 (i) The date the taxpayer files the return for the taxable year for
7 which the change is operative.

8 (ii) The extended due date for the return of the taxpayer for the
9 taxable year for which the change is operative.

10 (B) For purposes of this paragraph, a “change of law” means a
11 statutory change or an interpretation of law or rule of law by
12 regulation, legal ruling of counsel, within the meaning of
13 subdivision (b) of Section 11340.9 of the Government Code, or a
14 published federal or California court decision.

15 (C) The Franchise Tax Board shall implement this paragraph
16 in a reasonable manner.

17 (2) The imposition of an alternative apportionment or allocation
18 method by the Franchise Tax Board under the authority of Section
19 25137 because the standard allocation and apportionment
20 provisions of Article 2 (commencing with Section 25120) and the
21 regulations thereunder do not fairly represent the extent of the
22 taxpayer’s business activity in this state.

23 (3) A change to the taxpayer’s federal accounting method
24 pursuant to Section 446 of the Internal Revenue Code, relating to
25 general rule for methods of accounting, that is applicable for
26 purposes of Part 11 (commencing with Section 23001), but only
27 to the extent of understatements for taxable years where the due
28 date of the return, without regard to any extension of time for filing
29 the return, is before the date ~~on~~ of consent of the secretary to that
30 change of accounting method.

31 (g) No penalty shall be imposed under this section to the extent
32 that a taxpayer’s understatement is attributable to the taxpayer’s
33 reasonable reliance on written advice of the Franchise Tax Board,
34 but only if the written advice was a legal ruling by the Chief
35 Counsel, within the meaning of paragraph (1) of subdivision (a)
36 of Section 21012.

37 (h) (1) This section shall apply to each taxable year beginning
38 on or after January 1, 2003, for which the statute of limitations on
39 assessment has not expired.

1 (2) The amendments made to this section by Chapter 721 of the
2 Statutes of 2010 shall apply to each taxable year beginning on or
3 after January 1, 2010.

4 (3) (A) Except as otherwise provided, the amendments made
5 to this section by the act adding this paragraph shall apply to each
6 taxable year beginning on or after January 1, 2015.

7 (B) The provisions of paragraph (2) of subdivision (f), as added
8 by the act adding this paragraph, shall apply to understatements
9 for any taxable year for which the statute of limitations on
10 assessments has not expired as of the effective date of the act
11 adding this paragraph.

12 SEC. 21. Section 19141.5 of the Revenue and Taxation Code
13 is amended to read:

14 19141.5. (a) (1) Section 6038A of the Internal Revenue Code,
15 relating to information with respect to certain foreign-owned
16 corporations, shall apply.

17 (2) A penalty shall be imposed under this part for failure to
18 furnish information or maintain records and that penalty shall be
19 determined in accordance with Section 6038A of the Internal
20 Revenue Code.

21 (3) Section 11314 of Public Law 101-508, relating to application
22 of amendments made by Section 7403 of the Revenue
23 Reconciliation Act of 1989 to taxable years beginning on or before
24 July 10, 1989, shall apply.

25 (4) Section 6038A(e) of the Internal Revenue Code, relating to
26 enforcement of requests for certain records, is modified as follows:

27 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
28 Revenue Code shall instead refer to Section 19504.

29 (B) Each reference to “summons” shall instead refer to
30 “subpoena duces tecum.”

31 (C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall
32 refer to “superior courts of the State of California for the Counties
33 of Los Angeles, Sacramento, and San Diego, and for the City and
34 County of San Francisco,” instead of “United States district court
35 for the district in which the person (to whom the summons is
36 issued) resides or is found.”

37 (b) In the case of a corporation, each of the following shall
38 apply:

1 (1) Section 6038B of the Internal Revenue Code, relating to
2 notice of certain transfers to foreign persons, shall apply, except
3 as otherwise provided.

4 (2) The information required to be filed with the Franchise Tax
5 Board under this subdivision shall be a copy of the information
6 required to be filed with the Internal Revenue Service.

7 (3) (A) A penalty shall be imposed under this part for failure
8 to furnish information and that penalty shall be determined in
9 accordance with Section 6038B of the Internal Revenue Code,
10 except as otherwise provided.

11 (B) Subparagraph (A) shall not apply to any transfer described
12 in Section 6038B(a)(1)(B) of the Internal Revenue Code.

13 (c) (1) Section 6038C of the Internal Revenue Code, relating
14 to information with respect to foreign corporations engaged in
15 United States business, shall apply.

16 (2) A penalty shall be imposed under this part for failure to
17 furnish information or maintain records and that penalty shall be
18 determined in accordance with Section 6038C of the Internal
19 Revenue Code.

20 (3) Section 6038C(d) of the Internal Revenue Code, relating to
21 enforcement of requests for certain records, is modified as follows:

22 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
23 Revenue Code shall instead refer to Section 19504.

24 (B) Each reference to “summons” shall instead refer to
25 “subpoena duces tecum.”

26 (d) (1) Section 6038D of the Internal Revenue Code, relating
27 to information with respect to foreign financial assets, shall apply.

28 (2) A penalty shall be imposed under this part for failure to
29 furnish information and that penalty shall be determined in
30 accordance with Section 6038D of the Internal Revenue Code.

31 (e) For purposes of this part, the information required to be filed
32 with the Franchise Tax Board pursuant to this section shall be a
33 copy of the information filed with the Internal Revenue Service.

34 (f) For purposes of this section, each of the following shall
35 apply:

36 (1) Section 7701(a)(4) of the Internal Revenue Code, relating
37 to the term “domestic,” shall apply.

38 (2) Section 7701(a)(5) of the Internal Revenue Code, relating
39 to the term “foreign,” shall apply.

(3) Section 7701(a)(30) of the Internal Revenue Code, relating to the term “United States person,” shall apply. However, the term “United States person” shall not include any corporation that is not subject to the tax imposed under Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), or Chapter 3 (commencing with Section 23501), of Part 11.

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2016.

SEC. 22. Section 19164 of the Revenue and Taxation Code is amended to read:

19164. (a) (1) (A) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with Section 6662 of the Internal Revenue Code, relating to imposition of accuracy-related penalty on underpayments, except as otherwise provided.

(B) (i) Except for understatements relating to reportable transactions to which Section 19164.5 applies, in the case of any proposed deficiency assessment issued after the last date of the amnesty period specified in Chapter 9.1 (commencing with Section 19730) for any taxable year beginning prior to January 1, 2003, the penalty specified in Section 6662(a) of the Internal Revenue Code shall be computed by substituting “40 percent” for “20 percent.”

(ii) Clause (i) shall not apply to any taxable year of a taxpayer beginning prior to January 1, 2003, if, as of the start date of the amnesty program period specified in Section 19731, the taxpayer is then under audit by the Franchise Tax Board, or the taxpayer has filed a protest under Section 19041, or the taxpayer has filed an appeal under Section 19045, or the taxpayer is engaged in settlement negotiations under Section 19442, or the taxpayer has a pending judicial proceeding in any court of this state or in any federal court relating to the tax liability of the taxpayer for that taxable year.

(2) With respect to corporations, this subdivision shall apply to all of the following:

(A) All taxable years beginning on or after January 1, 1990.

(B) Any other taxable year for which an assessment is made after July 16, 1991.

1 (C) For purposes of this section, references in Section 6662(e)
2 of the Internal Revenue Code and the regulations thereunder,
3 relating to treatment of an affiliated group that files a consolidated
4 federal return, are modified to apply to those entities required to
5 be included in a combined report under Section 25101 or 25110.
6 For these purposes, entities included in a combined report pursuant
7 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall
8 be considered only to the extent required to be included in the
9 combined report.

10 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is
11 modified to provide that in the case of a corporation, other than
12 an “S” corporation, there is a substantial understatement of tax for
13 any taxable year if the amount of the understatement for the taxable
14 year exceeds the lesser of:

15 (A) Ten percent of the tax required to be shown on the return
16 for the taxable year (or, if greater, two thousand five hundred
17 dollars (\$2,500)).

18 (B) Five million dollars (\$5,000,000).

19 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is
20 modified to additionally provide that the excess determined under
21 Section 6662(d)(2)(A) of the Internal Revenue Code shall be
22 determined without regard to items to which Section 19164.5
23 applies and without regard to items with respect to which a penalty
24 is imposed by Section 19774.

25 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the
26 Internal Revenue Code shall apply to returns filed on or after
27 January 1, 2010.

28 (b) For purposes of Section 6662(d) of the Internal Revenue
29 Code, Section 6664 of the Internal Revenue Code, Section
30 6694(a)(1) of the Internal Revenue Code, and this part, the
31 Franchise Tax Board may prescribe a list of positions for which
32 the Franchise Tax Board believes there is not substantial authority
33 or there is no reasonable belief that the tax treatment is more likely
34 than not the proper tax treatment. That list (and any revisions
35 thereof) shall be published through the use of Franchise Tax Board
36 Notices or other published positions. In addition, the “listed
37 transactions” identified and published pursuant to the preceding
38 sentence shall be published on the Web site of the Franchise Tax
39 Board.

(c) A fraud penalty shall be imposed under this part and shall be determined in accordance with Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty, except as otherwise provided.

(d) (1) Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply, except as otherwise provided.

(2) Section 6664(c)(3) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2010.

(3) Section 6664(c)(4) of the Internal Revenue Code shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

(e) Except for purposes of subdivision (e) of Section 19774, Section 6662(b)(6) of the Internal Revenue Code shall not apply.

(f) Except for purposes of subdivision (e) of Section 19774, Section 6662(i) of the Internal Revenue Code, relating to increase in penalty in case of nondisclosed noneconomic substance transactions, shall not apply.

(g) Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply, except as otherwise provided.

(h) The amendments made to this section by Chapter 14 of the Statutes of 2011 shall apply to notices mailed on or after January 1, 2012.

~~SEC. 23. Section 19167 of the Revenue and Taxation Code is amended to read:~~

~~19167. A penalty shall be imposed under this section for any of the following:~~

~~(a) In accordance with Section 6695(a) of the Internal Revenue Code, relating to failure to furnish a copy to taxpayer, as required by Section 18625, except as otherwise provided.~~

~~(b) In accordance with Section 6695(c) of the Internal Revenue Code, relating to failure to furnish identifying number, as required by Section 18624, except as otherwise provided.~~

~~(c) In accordance with Section 6695(d) of the Internal Revenue Code, relating to failure to retain copy or list, as required by Section 18625 or for failure to retain an electronic filing declaration, as required by Section 18521.5, except as otherwise provided.~~

~~(d) Failure to register as a tax preparer with the California Tax Education Council, as required by Section 22253 of the Business~~

1 and Professions Code, unless it is shown that the failure was due
2 to reasonable cause and not due to willful neglect.

3 (1) ~~The amount of the penalty under this subdivision for the~~
4 ~~first failure to register is two thousand five hundred dollars~~
5 ~~(\$2,500). This penalty shall be waived if proof of registration is~~
6 ~~provided to the Franchise Tax Board within 90 days from the date~~
7 ~~notice of the penalty is mailed to the tax preparer.~~

8 (2) ~~The amount of the penalty under this subdivision for a failure~~
9 ~~to register, other than the first failure to register, is five thousand~~
10 ~~dollars (\$5,000).~~

11 (e) ~~The Franchise Tax Board shall not impose the penalties~~
12 ~~authorized by subdivision (d) until either one of the following has~~
13 ~~occurred:~~

14 (1) ~~Commencing January 1, 2006, and continuing each year~~
15 ~~thereafter, there is an appropriation in the Franchise Tax Board's~~
16 ~~annual budget to fund the costs associated with the penalty~~
17 ~~authorized by subdivision (d).~~

18 (2) (A) ~~An agreement has been executed between the California~~
19 ~~Tax Education Council and the Franchise Tax Board that provides~~
20 ~~that an amount equal to all first year costs associated with the~~
21 ~~penalty authorized by subdivision (d) shall be received by the~~
22 ~~Franchise Tax Board. For purposes of this subparagraph, first year~~
23 ~~costs include, but are not limited to, costs associated with the~~
24 ~~development of processes or systems changes, if necessary, and~~
25 ~~labor.~~

26 (B) ~~An agreement has been executed between the California~~
27 ~~Tax Education Council and the Franchise Tax Board that provides~~
28 ~~that the annual costs incurred by the Franchise Tax Board~~
29 ~~associated with the penalty authorized by subdivision (d) shall be~~
30 ~~reimbursed by the California Tax Education Council to the~~
31 ~~Franchise Tax Board.~~

32 (C) ~~Pursuant to the agreement described in subparagraph (A),~~
33 ~~the Franchise Tax Board has received an amount equal to the first~~
34 ~~year costs described in that subparagraph.~~

35 (f) ~~In accordance with Section 6695(g) of the Internal Revenue~~
36 ~~Code, for failure to be diligent in determining eligibility for earned~~
37 ~~income credit for returns required to be filed on or after June 24,~~
38 ~~2015.~~

39 (g) ~~Section 6695(h) of the Internal Revenue Code, relating to~~
40 ~~adjustment for inflation, shall not apply.~~

1 SEC. 23. *Section 19167 of the Revenue and Taxation Code is*
2 *amended to read:*

3 19167. (a) A penalty shall be imposed under this section for
4 any of the following:

5 ~~(a)~~

6 (1) In accordance with Section 6695(a) of the Internal Revenue
7 Code, for failure to furnish a copy of the return to the taxpayer, as
8 required by Section 18625.

9 ~~(b)~~

10 (2) In accordance with Section 6695(c) of the Internal Revenue
11 Code, for failure to furnish an identifying number, as required by
12 Section 18624.

13 ~~(c)~~

14 (3) In accordance with Section 6695(d) of the Internal Revenue
15 Code, for failure to retain a copy or list, as required by Section
16 18625 or for failure to retain an electronic filing declaration, as
17 required by Section 18621.5.

18 ~~(d)~~

19 (4) Failure to register as a tax preparer with the California Tax
20 Education Council, as required by Section 22253 of the Business
21 and Professions Code, unless it is shown that the failure was due
22 to reasonable cause and not due to willful neglect.

23 ~~(1)~~

24 (A) The amount of the penalty under this ~~subdivision~~ *paragraph*
25 for the first failure to register is two thousand five hundred dollars
26 (\$2,500). This penalty shall be waived if proof of registration is
27 provided to the Franchise Tax Board within 90 days from the date
28 notice of the penalty is mailed to the tax preparer.

29 ~~(2)~~

30 (B) The amount of the penalty under this ~~subdivision~~ *paragraph*
31 for a failure to register, other than the first failure to register, is
32 five thousand dollars (\$5,000).

33 ~~(c)~~

34 (C) The Franchise Tax Board shall not impose the penalties
35 authorized by ~~subdivision (d)~~ *this paragraph* until either one of
36 the following has occurred:

37 ~~(1)~~

38 (i) Commencing January 1, 2006, and continuing each year
39 thereafter, there is an appropriation in the Franchise Tax Board's

1 annual budget to fund the costs associated with the penalty
2 authorized by ~~subdivision (d)~~; *this paragraph*.

3 ~~(2) (A)~~

4 (ii) (I) An agreement has been executed between the California
5 Tax Education Council and the Franchise Tax Board that provides
6 that an amount equal to all first year costs associated with the
7 penalty authorized by ~~subdivision (d)~~ *this paragraph* shall be
8 received by the Franchise Tax Board. For purposes of this
9 ~~subparagraph~~, *subclause*, first year costs include, but are not limited
10 to, costs associated with the development of processes or systems
11 changes, if necessary, and labor.

12 ~~(B)~~

13 (II) An agreement has been executed between the California
14 Tax Education Council and the Franchise Tax Board that provides
15 that the annual costs incurred by the Franchise Tax Board
16 associated with the penalty authorized by ~~subdivision (d)~~ *this*
17 *paragraph* shall be reimbursed by the California Tax Education
18 Council to the Franchise Tax Board.

19 ~~(C)~~

20 (III) Pursuant to the agreement described in ~~subparagraph (A)~~,
21 *subclause (I)*, the Franchise Tax Board has received an amount
22 equal to the first year costs described in that ~~subparagraph~~.
23 *subclause*.

24 ~~(F)~~

25 (5) In accordance with Section 6695(g) of the Internal Revenue
26 Code, for failure to be diligent in determining eligibility for earned
27 income credit for returns required to be filed on or after ~~the~~
28 ~~effective date of the act adding this subdivision~~. *June 24, 2015*.

29 (b) *Section 6695(h) of the Internal Revenue Code, relating to*
30 *adjustment for inflation, shall not apply*.

31 SEC. 24. Section 19183 of the Revenue and Taxation Code is
32 amended to read:

33 19183. (a) (1) A penalty shall be imposed for failure to file
34 correct information returns, as required by this part, and that
35 penalty shall be determined in accordance with Section 6721 of
36 the Internal Revenue Code, relating to failure to file correct
37 information returns.

38 (2) Section 6721(e) of the Internal Revenue Code, relating to
39 penalty in case of intentional disregard, is modified to the extent

1 that the reference to Section 6041A(b) of the Internal Revenue
2 Code, relating to direct sales of \$5,000 or more, shall not apply.

3 (3) Section 6721(f)(1) of the Internal Revenue Code is modified
4 to substitute the phrase “For each fifth calendar year beginning
5 after 2014” for the phrase “In the case of any failure relating to a
6 return required to be filed in a calendar year beginning after 2014.”

7 (b) (1) A penalty shall be imposed for failure to furnish correct
8 payee statements as required by this part, and that penalty shall be
9 determined in accordance with Section 6722 of the Internal
10 Revenue Code, relating to failure to furnish correct payee
11 statements.

12 (2) Section 6722(c) of the Internal Revenue Code, relating to
13 exception for de minimus failures, is modified to the extent that
14 the references to Sections 6041A(b) and 6041A(e) of the Internal
15 Revenue Code, relating to direct sales of \$5,000 or more, and
16 statements to be furnished to persons with respect to whom
17 information is required to be furnished, shall not apply.

18 (3) Section 6722(f)(1) of the Internal Revenue Code is modified
19 to substitute the phrase “For each fifth calendar year beginning
20 after 2014” for the phrase “In the case of any failure relating to a
21 return required to be filed in a calendar year beginning after 2014.”

22 (c) A penalty shall be imposed for failure to comply with other
23 information reporting requirements under this part, and that penalty
24 shall be determined in accordance with Section 6723 of the Internal
25 Revenue Code, relating to failure to comply with other information
26 reporting requirements.

27 (d) (1) The provisions of Section 6724 of the Internal Revenue
28 Code, relating to waiver; definitions, and special rules, shall apply,
29 except as otherwise provided.

30 (2) Section 6724(d)(1) of the Internal Revenue Code, relating
31 to information return, is modified as follows:

32 (A) The following references are substituted:

33 (i) Subdivision (a) of Section 18640, in lieu of Section
34 6044(a)(1) of the Internal Revenue Code.

35 (ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a)
36 of the Internal Revenue Code, relating to reports.

37 (B) References to Sections 4101(d), 6041(b), 6041A(b), 6045(d),
38 6051(d), and 6053(c)(1) of the Internal Revenue Code shall not
39 apply.

1 (C) The term “information return” shall also include both of the
2 following:

3 (i) The return required by paragraph (1) of subdivision (i) of
4 Section 18662.

5 (ii) The return required by subdivision (a) of Section 18631.7.

6 (3) Section 6724(d)(2) of the Internal Revenue Code, relating
7 to payee statement, is modified as follows:

8 (A) The following references are substituted:

9 (i) Subdivision (b) of Section 18640, in lieu of Section 6044(e)
10 of the Internal Revenue Code, relating to statements to be furnished
11 to persons with respect to whom information is required.

12 (ii) Subdivision (b) of Section 18644, in lieu of Section
13 6050A(b) of the Internal Revenue Code, relating to written
14 statement.

15 (B) References to Sections 6031(b), 6037(b), 6041A(e), 6045(d),
16 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code shall
17 not apply.

18 (C) The term “payee statement” shall also include the statement
19 required by paragraph (2) of subdivision (i) of Section 18662.

20 (e) In the case of each failure to provide a written explanation
21 as required by Section 402(f) of the Internal Revenue Code, relating
22 to written explanation to recipients of distributions eligible for
23 rollover treatment, at the time prescribed therefor, unless it is
24 shown that the failure is due to reasonable cause and not to willful
25 neglect, there shall be paid, on notice and demand of the Franchise
26 Tax Board and in the same manner as tax, by the person failing to
27 provide that written explanation, an amount equal to ten dollars
28 (\$10) for each failure, but the total amount imposed on that person
29 for all those failures during any calendar year shall not exceed five
30 thousand dollars (\$5,000).

31 (f) Any penalty imposed by this part shall be paid on notice and
32 demand by the Franchise Tax Board and in the same manner as
33 tax.

34 (g) The amendments made to this section by the act adding this
35 subdivision shall apply to information returns required to be filed
36 on or after January 1, 2016.

37 SEC. 25. Section 19772 of the Revenue and Taxation Code is
38 amended to read:

39 19772. (a) Section 6707A of the Internal Revenue Code,
40 relating to penalty for failure to include reportable transactions

1 information with a return, shall apply, except as otherwise
2 provided.

3 (b) (1) Section 6707A(b)(1) of the Internal Revenue Code
4 relating to amount of penalty is modified by substituting the phrase
5 “or which would have resulted from such transaction if such
6 transaction were respected for state tax purposes” for the phrase
7 “or which would have resulted from such transaction if such
8 transaction were respected for Federal tax purposes.”

9 (2) The penalty amounts in Section 6707A(b)(2)(A) of the
10 Internal Revenue Code are modified by substituting “\$30,000
11 (\$15,000” for “\$200,000-~~(\$100,000.”~~ (*\$100,000*).”

12 (3) The penalty amounts in Section 6707A(b)(2)(B) of the
13 Internal Revenue Code are modified by substituting “\$15,000
14 (\$5,000” for “\$50,000-~~(\$10,000.”~~ (*10,000*).”

15 (4) The penalty amounts in Section 6707A(b)(3) of the Internal
16 Revenue Code relating to minimum penalty are modified by
17 substituting “\$2,500 (\$1,250” for “\$10,000-~~(\$5,000.”~~ (*5,000*).”

18 (c) (1) Section 6707A(c)(1) of the Internal Revenue Code
19 relating to reportable transaction is modified to include reportable
20 transactions within the meaning of paragraph (3) of subdivision
21 (a) of Section 18407.

22 (2) Section 6707A(c)(2) of the Internal Revenue Code relating
23 to listed transaction is modified to include listed transactions within
24 the meaning of paragraph (4) of subdivision (a) of Section 18407.

25 (d) The penalty under this section only applies to taxpayers with
26 taxable income greater than two hundred thousand dollars
27 (\$200,000).

28 (e) Section 6707A(e) of the Internal Revenue Code, relating to
29 a penalty reported to the Securities and Exchange Commission,
30 shall not apply.

31 (f) Section 6707A(d) of the Internal Revenue Code, relating to
32 authority to rescind penalty, shall not apply, and in lieu thereof,
33 the following shall apply:

34 (1) The Chief Counsel of the Franchise Tax Board may rescind
35 all or any portion of any penalty imposed by this section with
36 respect to any violation if all of the following apply:

37 (A) The violation is with respect to a reportable transaction
38 other than a listed transaction.

39 (B) The person on whom the penalty is imposed has a history
40 of complying with the requirements of this part and Part 10

1 (commencing with Section 17001) or Part 11 (commencing with
2 Section 23001).

3 (C) It is shown that the violation is due to an unintentional
4 mistake of fact.

5 (D) Imposing the penalty would be against equity and good
6 conscience.

7 (E) Rescinding the penalty would promote compliance with the
8 requirements of this part and Part 10 (commencing with Section
9 17001) or Part 11 (commencing with Section 23001) and effective
10 tax administration.

11 (2) The exercise of authority under paragraph (1) shall be at the
12 sole discretion of the Chief Counsel of the Franchise Tax Board
13 and may not be delegated.

14 (3) Notwithstanding any other law or rule of law, any
15 determination under this subdivision may not be reviewed in any
16 administrative or judicial proceeding.

17 (g) Article 3 (commencing with Section 19031) of Chapter 4
18 (relating to deficiency assessments) shall not apply with respect
19 to the assessment or collection of any penalty imposed under this
20 section.

21 (h) The penalty imposed by this section is in addition to any
22 penalty imposed under Part 10 (commencing with Section 17001),
23 Part 11 (commencing with Section 23001), or this part.

24 (i) The amendments made to this section by the act adding this
25 subdivision shall apply to penalties assessed on or after January
26 1, 2016.

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

29 23622.7. (a) There shall be allowed a credit against the “tax”
30 (as defined by Section 23036) to a taxpayer who employs a
31 qualified employee in an enterprise zone during the taxable year.
32 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

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

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

16 (B) Wages received during the 60-month period beginning with
17 the first day the employee 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 taxpayer does not constitute commencement of
21 employment for purposes of this section.

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

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

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

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

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

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

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

8 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (aa) Federal Supplemental Security Income benefits.

35 (bb) Aid to Families with Dependent Children.

36 (cc) CalFresh benefits.

37 (dd) State and local general assistance.

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

1 of a federally recognized Indian tribe, band, or other group of
2 Native American descent.

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

7 (X) An employee who qualified the taxpayer for the enterprise
8 zone hiring credit under former Section 23622 or the program area
9 hiring credit under former Section 23623.

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

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

20 (5) "Taxpayer" means a corporation engaged in a trade or
21 business within an enterprise zone designated pursuant to Chapter
22 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
23 the Government Code.

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

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

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

1 governments pursuant to subdivision (a) of Section 7086 of the
2 Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8

1 (commencing with Section 7070) of Division 7 of Title 1 of the
2 Government Code.

3 (h) The credit allowable under this section shall be reduced by
4 the credit allowed under Sections 23623.5, 23625, and 23646
5 claimed for the same employee. The credit shall also be reduced
6 by the federal credit allowed under Section 51 of the Internal
7 Revenue Code, as amended by the Emergency Economic
8 Stabilization Act of 2008 (Public Law 110-343).

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

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

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

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

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

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

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

12 (4) The portion of any credit remaining, if any, after application
13 of this subdivision, shall be carried over to succeeding taxable
14 years, if necessary, until the credit is exhausted, as if it were an
15 amount exceeding the "tax" for the taxable year, as provided in
16 subdivision (i). However, the portion of any credit remaining for
17 carryover to taxable years beginning on or after January 1, 2014,
18 if any, after application of this subdivision, shall be carried over
19 only to the succeeding 10 taxable years if necessary, until the credit
20 is exhausted, as if it were an amount exceeding the "tax" for the
21 taxable year, as provided in subdivision (i).

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

24 (l) (1) Except as provided in paragraph (2), this section shall
25 cease to be operative on January 1, 2014, and shall be repealed on
26 December 1, 2019. A credit shall not be allowed under this section
27 with respect to an employee who first commences employment
28 with a taxpayer on or after January 1, 2014.

29 (2) This section shall continue to apply with respect to qualified
30 employees who are employed by the taxpayer within the enterprise
31 zone within the 60-month period immediately preceding January
32 1, 2014, and qualified wages paid or incurred with respect to those
33 qualified employees shall continue to qualify for the credit under
34 this section for taxable years beginning on or after January 1, 2014,
35 in accordance with this section, as amended by the act adding this
36 subdivision.

37 SEC. 27. Section 23622.8 of the Revenue and Taxation Code
38 is amended to read:

39 23622.8. (a) For each taxable year beginning on or after
40 January 1, 1998, there shall be allowed a credit against the "tax"

1 (as defined in Section 23036) to a qualified taxpayer for hiring a
2 qualified disadvantaged individual during the taxable year for
3 employment in the manufacturing enhancement area. The credit
4 shall be equal to the sum of each of the following:

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

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

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

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

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

15 (b) For purposes of this section:

16 (1) "Qualified wages" means:

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

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

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

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

1 if the manufacturing enhancement area designation were still in
2 existence and binding.

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

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

11 (4) “Manufacturing enhancement area expiration date” means
12 the date the manufacturing enhancement area designation expires,
13 is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

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

29 (i) An individual who has been determined eligible for services
30 under the federal Job Training Partnership Act (29 U.S.C. Sec.
31 1501 et seq.) or its successor.

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

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

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

5 (A) Is engaged in those lines of business described in Codes
6 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
7 inclusive, of the Standard Industrial Classification (SIC) Manual
8 published by the United States Office of Management and Budget,
9 1987 edition.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (e) The credit shall be reduced by the credit allowed under
13 Section 23621. The credit shall also be reduced by the federal
14 credit allowed under Section 51 of the Internal Revenue Code, as
15 amended by the Emergency Economic Stabilization Act of 2008
16 (Public Law 110-343).

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

21 (f) In the case where the credit otherwise allowed under this
22 section exceeds the “tax” for the taxable year, that portion of the
23 credit that exceeds the “tax” may be carried over and added to the
24 credit, if any, in the succeeding 10 taxable years, if necessary, until
25 the credit is exhausted. The credit shall be applied first to the
26 earliest taxable years possible.

27 (g) (1) The amount of credit otherwise allowed under this
28 section, including prior year credit carryovers, that may reduce
29 the “tax” for the taxable year shall not exceed the amount of tax
30 that would be imposed on the qualified taxpayer’s business income
31 attributed to a manufacturing enhancement area determined as if
32 that attributed income represented all of the net income of the
33 qualified taxpayer subject to tax under this part.

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

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

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

For the purposes of this paragraph:

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

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

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

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

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

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility

1 requirements specified in paragraph (5) of subdivision (b). The
2 Employment Development Department may provide preliminary
3 screening and referral to a certifying agency. The Department of
4 Housing and Community Development shall develop regulations
5 governing the issuance of certificates pursuant to subdivision (d)
6 of Section 7086 of the Government Code and shall develop forms
7 for this purpose.

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

10 (j) (1) Except as provided in paragraph (2), this section shall
11 cease to be operative for taxable years beginning on or after January
12 1, 2014, and shall be repealed on December 1, 2019.

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

21 SEC. 28. Section 23646 of the Revenue and Taxation Code is
22 amended to read:

23 23646. (a) For each taxable year beginning on or after January
24 1, 1995, there shall be allowed as a credit against the "tax" (as
25 defined in Section 23036) to a qualified taxpayer for hiring a
26 qualified disadvantaged individual or a qualified displaced
27 employee during the taxable year for employment in the LAMBRA.
28 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

39 (b) For purposes of this section:

40 (1) "Qualified wages" means:

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

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

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

15 (D) Qualified wages do not include any wages paid or incurred
16 by the qualified taxpayer on or after the LAMBRA expiration date.
17 However, wages paid or incurred with respect to qualified
18 disadvantaged individuals or qualified displaced employees who
19 are employed by the qualified taxpayer within the LAMBRA within
20 the 60-month period prior to the LAMBRA expiration date shall
21 continue to qualify for the credit under this section after the
22 LAMBRA expiration date, in accordance with all provisions of
23 this section applied as if the LAMBRA 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) "LAMBRA" means a local agency military base recovery
30 area designated in accordance with the provisions of Section 7114
31 of the Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) CalFresh benefits.

18 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (g) The credit shall be reduced by the credit allowed under
12 Section 23621. The credit shall also be reduced by the federal
13 credit allowed under Section 51 of the Internal Revenue Code, as
14 amended by the Emergency Stabilization Act of 2008 (Public Law
15 110-343).

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 "tax" for the taxable year, that portion of the
22 credit that exceeds the "tax" may be carried over and added to the
23 credit, if any, in the succeeding 10 taxable years, if necessary, until
24 the credit is exhausted. The credit shall be applied first to the
25 earliest taxable years possible.

26 (i) (1) The amount of credit otherwise allowed under this section
27 and Section 23645, including any prior year carryovers, that may
28 reduce the "tax" for the taxable year shall not exceed the amount
29 of tax that would be imposed on the taxpayer's business income
30 attributed to a LAMBRA determined as if that attributed income
31 represented all of the income of the taxpayer subject to tax under
32 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).
38 That business income shall be further apportioned to the LAMBRA
39 in accordance with Article 2 (commencing with Section 25120)

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

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

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

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

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, if necessary, until the credit is exhausted, as if it were an
22 amount exceeding the "tax" for the taxable year, as provided in
23 subdivision (h). However, the portion of any credit remaining for
24 carryover to taxable years beginning on or after January 1, 2014,
25 if any, after application of this subdivision, shall be carried over
26 only to the succeeding 10 taxable years, if necessary, until the
27 credit is exhausted, as if it were an amount exceeding the "tax"
28 for the taxable year, as provided in subdivision (h).

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

33 (k) (1) Except as provided in paragraph (2), this section shall
34 cease to be operative on January 1, 2014, and shall be repealed on
35 December 1, 2019. A credit shall not be allowed under this section
36 with respect to an employee who first commences employment
37 with a qualified taxpayer on or after January 1, 2014.

38 (2) This section shall continue to apply with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA within

1 the 60-month period immediately preceding January 1, 2014, and
2 qualified wages paid or incurred with respect to those qualified
3 disadvantaged individuals or qualified displaced employees shall
4 continue to qualify for the credit under this section for taxable
5 years beginning on or after January 1, 2014, in accordance with
6 this section, as amended by the act adding this subdivision.

7 SEC. 29. Section 23701i of the Revenue and Taxation Code
8 is amended to read:

9 23701i. A voluntary employees' beneficiary association
10 described in Section 501(c)(9) of the Internal Revenue Code.

11 SEC. 30. Section 24307 of the Revenue and Taxation Code is
12 amended to read:

13 24307. (a) Section 108 of the Internal Revenue Code, relating
14 to income from discharge of indebtedness, shall apply, except as
15 otherwise provided.

16 (b) Section 108(b)(2)(B) of the Internal Revenue Code, relating
17 to general business credit, is modified by substituting "this part"
18 in lieu of "Section 38 (relating to general business credit)."

19 (c) Section 108(b)(2)(G) of the Internal Revenue Code, relating
20 to foreign tax credit carryovers, shall not apply.

21 (d) Section 108(b)(3)(B) of the Internal Revenue Code, relating
22 to credit carryover reduction, is modified by substituting "11.1
23 cents" in lieu of "33 1/3 cents" in each place in which it appears. In
24 the case where more than one credit is allowable under this part,
25 the credits shall be reduced on a pro rata basis.

26 (e) Section 108(g)(3)(B) of the Internal Revenue Code, relating
27 to adjusted tax attributes, is modified by substituting "\$9" in lieu
28 of "\$3."

29 (f) (1) The amendments to Section 108 of the Internal Revenue
30 Code made by Section 13150 of the Revenue Reconciliation Act
31 of 1993 (Public Law 103-66), relating to exclusion from gross
32 income for income from discharge of qualified real property
33 business indebtedness, shall apply to discharges occurring on or
34 after January 1, 1996, in taxable years beginning on or after January
35 1, 1996.

36 (2) If a taxpayer makes an election for federal income tax
37 purposes under Section 108(c) of the Internal Revenue Code,
38 relating to treatment of discharge of qualified real property business
39 indebtedness, a separate election shall not be allowed under

1 paragraph (3) of subdivision (e) of Section 23051.5 and the federal
2 election shall be binding for purposes of this part.

3 (3) If a taxpayer has not made an election for federal income
4 tax purposes under Section 108(c) of the Internal Revenue Code,
5 relating to treatment of discharge of qualified real property business
6 indebtedness, then the taxpayer shall not be allowed to make that
7 election for purposes of this part.

8 (g) The amendments to Section 108 of the Internal Revenue
9 Code made by Section 13226 of the Revenue Reconciliation Act
10 of 1993 (Public Law 103-66), relating to modifications of discharge
11 of indebtedness provisions, shall apply to discharges occurring on
12 or after January 1, 1996, in taxable years beginning on or after
13 January 1, 1996.

14 (h) The amendments made to Section 108(d)(7)(A) of the
15 Internal Revenue Code, relating to certain provisions to be applied
16 at the corporate level by Section 402 of the Job Creation and
17 Worker Assistance Act of 2002 (Public Law 107-147), shall apply
18 to discharges of indebtedness after December 31, 2001, in taxable
19 years ending after that date. This subdivision shall not apply to
20 any discharge of indebtedness made before March 1, 2002, pursuant
21 to a plan of reorganization filed with a bankruptcy court on or
22 before October 11, 2001.

23 (i) Section 108(i) of the Internal Revenue Code, relating to
24 deferral and ratable inclusion of income arising from business
25 indebtedness discharged by the reacquisition of a debt instrument,
26 shall not apply.

27 SEC. 31. Section 24345.5 is added to the Revenue and Taxation
28 Code, to read:

29 24345.5. A deduction shall not be allowed for the fee imposed
30 by subsection (a) of Section 9008 of the Patient Protection and
31 Affordable Care Act (Public Law 111-148).

32 SEC. 32. Section 24427 of the Revenue and Taxation Code is
33 amended to read:

34 24427. Section 267 of the Internal Revenue Code, relating to
35 losses, expenses, and interest with respect to transactions between
36 related taxpayers, shall apply, except as otherwise provided.

37 SEC. 33. Section 24439 of the Revenue and Taxation Code is
38 amended to read:

39 24439. (a) No deduction shall be allowed to the issuing
40 corporation for any premium paid or incurred upon the repurchase

1 of a bond, debenture, note, or certificate or other evidence of
2 indebtedness which is convertible into the stock of the issuing
3 corporation, or a corporation in the same parent-subsidary
4 controlled group, within the meaning of Section 1563(a)(1) of the
5 Internal Revenue Code, relating to parent-subsidary controlled
6 group, as the issuing corporation, to the extent the repurchase price
7 exceeds an amount equal to the adjusted issue price plus a normal
8 call premium on bonds or other evidences of indebtedness which
9 are not convertible. The preceding sentence shall not apply to the
10 extent that the corporation can demonstrate to the satisfaction of
11 the Franchise Tax Board that such excess is attributable to the cost
12 of borrowing and is not attributable to the conversion feature.

13 (b) For purposes of subdivision (a), the adjusted issue price is
14 the issue price, as defined in Sections 1273(b) and 1274 of the
15 Internal Revenue Code, increased by any amount of discount
16 deducted before repurchase, or, in the case of bonds or other
17 evidences of indebtedness issued after February 28, 1913,
18 decreased by any amount of premium included in gross income
19 before repurchase by the issuing corporation.

20 (c) The provisions of this section shall not apply to a convertible
21 bond or other convertible evidence of indebtedness repurchased
22 pursuant to a binding obligation incurred on or before April 22,
23 1969, to repurchase such bond or other evidence of indebtedness
24 at a specified call premium, but no inference shall be drawn from
25 the fact that this section does not apply to the repurchase of such
26 convertible bond or other convertible evidence of indebtedness.

27 (d) The amendments made to this section by the act adding this
28 subdivision shall apply to repurchases on or after January 1, 2015.

29 SEC. 34. Section 24452.1 of the Revenue and Taxation Code
30 is repealed.

31 SEC. 35. Section 24454 is added to the Revenue and Taxation
32 Code, to read:

33 24454. Section 304(b)(5)(B) of the Internal Revenue Code,
34 relating to special rule in case of foreign acquiring corporation,
35 shall apply to acquisitions on or after January 1, 2015.

36 SEC. 36. Section 24459 is added to the Revenue and Taxation
37 Code, to read:

38 24459. Section 382(n) of the Internal Revenue Code, relating
39 to special rule for certain ownership changes, shall not apply.

SEC. 37. Section 24870 of the Revenue and Taxation Code is amended to read:

24870. Subchapter M of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to regulated investment companies and real estate investment trusts, shall apply, except as otherwise provided in this part.

SEC. 38. Section 24871 of the Revenue and Taxation Code is amended to read:

24871. (a) (1) Section 852(b)(1) of the Internal Revenue Code, relating to imposition of tax on regulated investment companies, shall not apply.

(2) Every regulated investment company shall be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except that its “net income” shall be equal to its “investment company income,” as defined in subdivision (b).

(3) (A) Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code is modified by substituting “\$12,500” for “\$50,000.”

(B) Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is modified by substituting the phrase “the rate of tax specified in Section 23151” for the phrase “the highest rate of tax specified in section 11” contained therein.

(C) Section 851(d)(2)(C)(iii) of the Internal Revenue Code, relating to administrative provisions, is modified by substituting the phrase “Article 3 of Part 10.2 (commencing with Section 19031), a tax imposed by this subparagraph shall be treated as a tax with respect to which the deficiency procedures of such article apply” for the phrase “subtitle F, a tax imposed by this subparagraph shall be treated as an excise tax with respect to which the deficiency procedures of such subtitle apply” contained therein.

(D) Section 851(i)(2) of the Internal Revenue Code, relating to imposition of tax on failures, shall not apply.

(b) “Investment company income” means investment company taxable income, as defined in Section 852(b)(2) of the Internal Revenue Code, modified as follows:

(1) Section 852(b)(2)(A) of the Internal Revenue Code, relating to an exclusion for net capital gain, does not apply.

(2) Section 852(b)(2)(B) of the Internal Revenue Code, relating to net operating losses, is modified to deny the deduction allowed

1 under Sections 24416 and 24416.1, in lieu of denying the deduction
2 allowed by Section 172 of the Internal Revenue Code.

3 (3) In lieu of the provision of Section 852(b)(2)(C) of the
4 Internal Revenue Code, relating to special deductions for
5 corporations, no deduction shall be allowed under Sections 24402,
6 24406, 24410, and 25106.

7 (4) The deduction for dividends paid, under Section
8 852(b)(2)(D) of the Internal Revenue Code, is modified to allow
9 capital gain dividends and exempt interest dividends (to the extent
10 that interest is included in gross income under this part) to be
11 included in the computation of the deduction.

12 (c) Section 852(b)(3)(A) of the Internal Revenue Code, relating
13 to imposition of tax, shall not apply.

14 (d) (1) Section 852(b)(5) of the Internal Revenue Code, relating
15 to exempt-interest dividends, is modified by substituting the phrase
16 “that, when held by an individual, the interest therefrom is exempt
17 from taxation by this state” for the phrase “described in section
18 103(a)” contained therein.

19 (2) Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code,
20 relating to exempt interest, is modified by substituting the phrase
21 “on obligations that, if held by an individual, is exempt from
22 taxation by this state, over the amounts disallowed as deductions
23 under subdivision (b) of Section 24360 or Section 24425” for the
24 phrase “excludable from gross income under section 103(a) over
25 the amounts disallowed as deductions under sections 265 and
26 171(a)(2)” contained therein.

27 (3) Section 852(b)(5)(B) of the Internal Revenue Code, relating
28 to treatment of exempt-interest dividends by shareholders, shall
29 not apply.

30 (e) Section 854 of the Internal Revenue Code, relating to
31 limitations applicable to dividends received from regulated
32 investment companies, is modified to refer to Sections 24402,
33 24406, 24410, and 25106, in lieu of Section 243 of the Internal
34 Revenue Code.

35 (f) Section 852(g)(1)(A) of the Internal Revenue Code is
36 modified by substituting the phrase “subdivision (a) of Section
37 17145” for the phrase “the first sentence of subsection (b)(5)”
38 contained therein.

39 SEC. 39. Section 24871.1 of the Revenue and Taxation Code
40 is repealed.

1 SEC. 40. Section 24990.5 of the Revenue and Taxation Code
2 is amended to read:

3 24990.5. (a) Section 1201 of the Internal Revenue Code,
4 relating to alternative tax for corporations, shall not be applicable.

5 (b) The provisions of Section 1212 of the Internal Revenue
6 Code, relating to capital loss carrybacks and carryovers, are
7 modified as follows:

8 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating
9 to capital loss carrybacks, shall not apply.

10 (2) Section 1212(a)(4) of the Internal Revenue Code, relating
11 to special rules on carrybacks, shall not apply.

12 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,
13 relating to other taxpayers and carryback of losses from Section
14 1256 contracts to offset prior gains from such contracts,
15 respectively, shall not apply.

16 SEC. 41. (a) Except as otherwise provided, the provisions of
17 this act shall apply to taxable years beginning on or after January
18 1, 2015.

19 (b) Sections 201 to 221, inclusive, of the Tax Technical
20 Corrections Act of 2014 (Title II of Division A of Public Law
21 113-295), enacted numerous technical corrections and clarifications
22 to provisions of the Internal Revenue Code, including technical
23 corrections and clarifications relating to the American Taxpayer
24 Relief Act of 2012 (Public Law 112-240), the Middle Class Tax
25 Relief and Job Creation Act of 2012 (Public Law 112-96), the
26 FAA Modernization and Reform Act of 2012 (Title IX of Public
27 Law 112-95), the Regulated Investment Company Modernization
28 Act of 2010 (Public Law 111-325), the Tax Relief, Unemployment
29 Insurance Reauthorization, and Job Creation Act of 2010 (Public
30 Law 111-312), the Creating Small Business Jobs Act of 2010 (Title
31 II of Public Law 111-240), the Hiring Incentives to Restore
32 Employment Act (Public Law 111-147), the American Recovery
33 and Reinvestment Tax Act of 2009 (Public Law 111-5), the
34 Economic Stimulus Act of 2008 (Division A of Public Law
35 110-343), the Energy Improvement and Extension Act of 2008
36 (Division B of Public Law 110-343), the Tax Extenders and
37 Alternative Minimum Tax Relief Act of 2008 (Division C of Public
38 Law 110-343), the Housing Assistance Tax Act of 2008 (Division
39 C of Public Law 110-289), the Heroes Earnings Assistance and
40 Relief Tax Act of 2008 (Public Law 110-245), the Tax Technical

1 Corrections Act of 2007 (Public Law 110-172), the Tax Relief and
2 Health Care Act of 2006 (Public Law 109-432), the Safe,
3 Accountable, Flexible, Efficient Transportation Equity Act of
4 2005: A Legacy for Users (Public Law 109-59), the Energy Tax
5 Incentives Act of 2005 (Title XIII of Public Law 109-58), and the
6 American Jobs Creation Act of 2004 (Public Law 108-357), some
7 of which are incorporated by reference into Part 10 (commencing
8 with Section 17001), Part 10.2 (commencing with Section 18401),
9 and Part 11 (commencing with Section 23001) of Division 2 of
10 the Revenue and Taxation Code. Unless otherwise provided, the
11 technical corrections described in the preceding sentence, to the
12 extent that they correct provisions that are incorporated by
13 reference into the Revenue and Taxation Code, are declaratory of
14 existing law and shall be applied in the same manner and for the
15 same periods as specified for federal purposes, or if later, the
16 specified date of incorporation.

17 SEC. 42. It is the intent of the Legislature to confirm the
18 validity and ongoing effect of Senate Bill No. 401 of the 2009–10
19 Regular Session.

20 SEC. 43. The Legislature finds and declares that the application
21 of paragraph (2) of subdivision (f) of Section 19138 of the Revenue
22 and Taxation Code to taxable years for which the statute of
23 limitations on assessments has not expired as of the effective date
24 of this act serves a public purpose by ensuring fair and consistent
25 application of California law in cases where the Franchise Tax
26 Board imposes on a taxpayer an alternative allocation or
27 apportionment method under the authority of Section 25137 of the
28 Revenue and Taxation Code.

29 SEC. 44. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 In order to provide much needed tax relief to taxpayers in
34 conformity with federal tax relief enacted in the last four years
35 and to alleviate administrative burdens on state tax agencies, it is
36 necessary that this act go into immediate effect.