

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 931

**Introduced by Assembly Member Irwin
(Principal coauthor: Assembly Member Brough)**

February 26, 2015

An act to amend Sections 17053.73 and 23626 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 931, as amended, Irwin. Taxation: credit: hiring.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2014, and before January 1, 2021, a credit for hiring qualified full-time employees within specified economic development areas. Existing law defines “qualified full-time employee” to include an individual who is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

This bill would, under both laws for taxable years beginning on or after January 1, 2016, revise this definition of a “qualified full-time employee” to include a person who, upon commencement of employment with the qualified taxpayer, is a veteran that separated from service in the Armed Forces of the United States within the 36 months preceding commencement of employment with the qualified

~~taxpayer~~ taxpayer and was unemployed for the six months immediately preceding employment with the qualified taxpayer.

Existing law also allows a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor’s Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credits allocated to taxpayers to a specified sum per fiscal year and provides that the amount available for these credits will decrease based in part, on how much credit is allowed under the hiring credit that would be expanded by this bill.

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

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 17053.73 of the Revenue and Taxation
 2 Code is amended to read:
 3 17053.73. (a) (1) For each taxable year beginning on or after
 4 January 1, 2014, and before January 1, 2021, there shall be allowed
 5 to a qualified taxpayer that hires a qualified full-time employee
 6 and pays or incurs qualified wages attributable to work performed
 7 by the qualified full-time employee in a designated census tract
 8 or economic development area, and that receives a tentative credit
 9 reservation for that qualified full-time employee, a credit against
 10 the “net tax,” as defined in Section 17039, in an amount calculated
 11 under this section.
 12 (2) The amount of the credit allowable under this section for a
 13 taxable year shall be equal to the product of the tentative credit
 14 amount for the taxable year and the applicable percentage for the
 15 taxable year.

1 (3) (A) If a qualified taxpayer relocates to a designated census
2 tract or economic development area, the qualified taxpayer shall
3 be allowed a credit with respect to qualified wages for each
4 qualified full-time employee who is employed within the new
5 location only if the qualified taxpayer provides each employee at
6 the previous location or locations a written offer of employment
7 at the new location in the designated census tract or economic
8 development area with comparable compensation.

9 (B) For purposes of this paragraph, “relocates to a designated
10 census tract or economic development area” means an increase in
11 the number of qualified full-time employees, employed by a
12 qualified taxpayer, within a designated census tract or tracts or
13 economic development areas within a 12-month period in which
14 there is a decrease in the number of full-time employees, employed
15 by the qualified taxpayer in this state, but outside of designated
16 census tracts or economic development areas.

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

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

22 (b) For purposes of this section:

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

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

38 (3) The “applicable credit percentage” means the credit
39 percentage for the calendar year during which a qualified full-time
40 employee was first employed by the qualified taxpayer. The

1 applicable credit percentage for all calendar years shall be 35
2 percent.

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

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

11 (6) “Annual full-time equivalent” means either of the following:

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

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

19 (7) “Designated census tract” means a census tract within the
20 state that is determined by the Department of Finance to have a
21 civilian unemployment rate that is within the top 25 percent of all
22 census tracts within the state and has a poverty rate within the top
23 25 percent of all census tracts within the state, as prescribed in
24 Section 13073.5 of the Government Code.

25 (8) “Economic development area” means either of the following:

26 (A) A former enterprise zone. For purposes of this section,
27 “former enterprise zone” means an enterprise zone designated and
28 in effect as of December 31, 2011, any enterprise zone designated
29 during 2012, and any revision of an enterprise zone prior to June
30 30, 2013, under former Chapter 12.8 (commencing with Section
31 7070) of Division 7 of Title 1 of the Government Code, as in effect
32 on December 31, 2012, excluding any census tract within an
33 enterprise zone that is identified by the Department of Finance
34 pursuant to Section 13073.5 of the Government Code as a census
35 tract within the lowest quartile of census tracts with the lowest
36 civilian unemployment and poverty.

37 (B) A local agency military base recovery area designated as
38 of the effective date of the act adding this subparagraph, in
39 accordance with Section 7114 of the Government Code.

1 (9) “Minimum wage” means the wage established pursuant to
2 Chapter 1 (commencing with Section 1171) of Part 4 of Division
3 2 of the Labor Code.

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

6 (i) Performs at least 50 percent of his or her services for the
7 qualified taxpayer during the taxable year in a designated census
8 tract or economic development area.

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

11 (iii) Is hired by the qualified taxpayer on or after January 1,
12 2014.

13 (iv) Is hired by the qualified taxpayer after the date the
14 Department of Finance determines that the census tract referred
15 to in clause (i) is a designated census tract or that the census tracts
16 within a former enterprise zone are not census tracts with the lowest
17 civilian unemployment and poverty.

18 (v) Satisfies either of the following conditions:

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

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

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

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

35 ~~(H) (ia) For each taxable year beginning on or after January 1,~~
36 ~~2014, and before January 1, 2016, is a veteran who separated from~~
37 ~~service in the Armed Forces of the United States within the 12~~
38 ~~months preceding commencement of employment with the~~
39 ~~qualified taxpayer.~~

- 1 (II) *Is a veteran who separated from service in the Armed*
 2 *Forces of the United States within the 12 months preceding*
 3 *commencement of employment with the qualified taxpayer.*
 4 ~~(ib)~~
 5 (III) For each taxable year beginning on or after January 1, 2016,
 6 is a veteran who separated from service in the Armed Forces of
 7 the United States within the 36 months preceding commencement
 8 of employment with the qualified ~~taxpayer.~~ *taxpayer and was*
 9 *unemployed for the six months immediately preceding employment*
 10 *with the qualified taxpayer.*
 11 ~~(H)~~
 12 (IV) Was a recipient of the credit allowed under Section 32 of
 13 the Internal Revenue Code, relating to earned income, as applicable
 14 for federal purposes, for the previous taxable year.
 15 ~~(IV)~~
 16 (V) Is an ex-offender previously convicted of a felony.
 17 ~~(V)~~
 18 (VI) Is a recipient of either CalWORKs, in accordance with
 19 Article 2 (commencing with Section 11250) of Chapter 2 of Part
 20 3 of Division 9 of the Welfare and Institutions Code, or general
 21 assistance, in accordance with Section 17000.5 of the Welfare and
 22 Institutions Code.
 23 (B) An individual may be considered a qualified full-time
 24 employee only for the period of time commencing with the date
 25 the individual is first employed by the qualified taxpayer and
 26 ending 60 months thereafter.
 27 (11) (A) “Qualified taxpayer” means a person or entity engaged
 28 in a trade or business within a designated census tract or economic
 29 development area that, during the taxable year, pays or incurs
 30 qualified wages.
 31 (B) In the case of any pass-thru entity, the determination of
 32 whether a taxpayer is a qualified taxpayer under this section shall
 33 be made at the entity level and any credit under this section or
 34 Section 23626 shall be allowed to the pass-thru entity and passed
 35 through to the partners and shareholders in accordance with
 36 applicable provisions of this part or Part 11 (commencing with
 37 Section 23001). For purposes of this subdivision, the term
 38 “pass-thru entity” means any partnership or “S” corporation.
 39 (C) “Qualified taxpayers” shall not include any of the following:

- 1 (i) Employers that provide temporary help services, as described
2 in Code 561320 of the North American Industry Classification
3 System (NAICS) published by the United States Office of
4 Management and Budget, 2012 edition.
- 5 (ii) Employers that provide retail trade services, as described
6 in Sector 44-45 of the North American Industry Classification
7 System (NAICS) published by the United States Office of
8 Management and Budget, 2012 edition.
- 9 (iii) Employers that are primarily engaged in providing food
10 services, as described in Code 711110, 722511, 722513, 722514,
11 or 722515 of the North American Industry Classification System
12 (NAICS) published by the United States Office of Management
13 and Budget, 2012 edition.
- 14 (iv) Employers that are primarily engaged in services as
15 described in Code 713210, 721120, or 722410 of the North
16 American Industry Classification System (NAICS) published by
17 the United States Office of Management and Budget, 2012 edition.
- 18 (v) (I) An employer that is a sexually oriented business.
19 (II) For purposes of this clause:
20 (ia) “Sexually oriented business” means a nightclub, bar,
21 restaurant, or similar commercial enterprise that provides for an
22 audience of two or more individuals live nude entertainment or
23 live nude performances where the nudity is a function of everyday
24 business operations and where nudity is a planned and intentional
25 part of the entertainment or performance.
26 (ib) “Nude” means clothed in a manner that leaves uncovered
27 or visible, through less than fully opaque clothing, any portion of
28 the genitals or, in the case of a female, any portion of the breasts
29 below the top of the areola of the breasts.
- 30 (D) Subparagraph (C) shall not apply to a taxpayer that is a
31 “small business.”
- 32 (12) “Qualified wages” means those wages that meet all of the
33 following requirements:
34 (A) (i) Except as provided in clause (ii), that portion of wages
35 paid or incurred by the qualified taxpayer during the taxable year
36 to each qualified full-time employee that exceeds 150 percent of
37 minimum wage, but does not exceed 350 percent of minimum
38 wage.
39 (ii) (I) In the case of a qualified full-time employee employed
40 in a designated pilot area, that portion of wages paid or incurred

1 by the qualified taxpayer during the taxable year to each qualified
2 full-time employee that exceeds ten dollars (\$10) per hour or an
3 equivalent amount for salaried employees, but does not exceed
4 350 percent of the minimum wage. For qualified full-time
5 employees described in the preceding sentence, clause (ii) of
6 subparagraph (A) of paragraph (10) is modified by substituting
7 “ten dollars (\$10) per hour or an equivalent amount for salaried
8 employees” for “150 percent of the minimum wage.”

9 (II) For purposes of this clause:

10 (ia) “Designated pilot area” means an area designated as a
11 designated pilot area by the Governor’s Office of Business and
12 Economic Development.

13 (ib) Areas that may be designated as a designated pilot area are
14 limited to areas within a designated census tract or an economic
15 development area with average wages less than the statewide
16 average wages, based on information from the Labor Market
17 Division of the Employment Development Department, and areas
18 within a designated census tract or an economic development area
19 based on high poverty or high unemployment.

20 (ic) The total number of designated pilot areas that may be
21 designated is limited to five, one or more of which must be an area
22 within five or fewer designated census tracts within a single county
23 based on high poverty or high unemployment or an area within an
24 economic development area based on high poverty or high
25 unemployment.

26 (id) The designation of a designated pilot area shall be applicable
27 for a period of four calendar years, commencing with the first
28 calendar year for which the designation of a designated pilot area
29 is effective. The applicable period of a designated pilot area may
30 be extended, in the sole discretion of the Governor’s Office of
31 Business and Economic Development, for an additional period of
32 up to three calendar years. The applicable period, and any extended
33 period, shall not extend beyond December 31, 2020.

34 (III) The designation of an area as a designated pilot area and
35 the extension of the applicable period of a designated pilot area
36 shall be at the sole discretion of the Governor’s Office of Business
37 and Economic Development and shall not be subject to
38 administrative appeal or judicial review.

39 (B) Wages paid or incurred during the 60-month period
40 beginning with the first day the qualified full-time employee

1 commences employment with the qualified taxpayer. In the case
2 of any employee who is reemployed, including a regularly
3 occurring seasonal increase, in the trade or business operations of
4 the qualified taxpayer, this reemployment shall not be treated as
5 constituting commencement of employment for purposes of this
6 section.

7 (C) Except as provided in paragraph (3) of subdivision (n),
8 qualified wages shall not include any wages paid or incurred by
9 the qualified taxpayer on or after the date that the Department of
10 Finance’s redesignation of designated census tracts is effective,
11 as provided in paragraph (2) of subdivision (g), so that a census
12 tract is no longer a designated census tract.

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

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

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

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

30 (C) (i) “Small business” shall not include a sexually oriented
31 business.

32 (ii) For purposes of this subparagraph:

33 (I) “Sexually oriented business” means a nightclub, bar,
34 restaurant, or similar commercial enterprise that provides for an
35 audience of two or more individuals live nude entertainment or
36 live nude performances where the nudity is a function of everyday
37 business operations and where nudity is a planned and intentional
38 part of the entertainment or performance.

39 (II) “Nude” means clothed in a manner that leaves uncovered
40 or visible, through less than fully opaque clothing, any portion of

1 the genitals or, in the case of a female, any portion of the breasts
2 below the top of the areola of the breasts.

3 (15) An individual is “unemployed” for any period for which
4 the individual is all of the following:

5 (A) Not in receipt of wages subject to withholding under Section
6 13020 of the Unemployment Insurance Code for that period.

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

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

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

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

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

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

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

28 (d) For purposes of this section:

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

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

36 (e) (1) To be eligible for the credit allowed by this section, a
37 qualified taxpayer shall, upon hiring a qualified full-time employee,
38 request a tentative credit reservation from the Franchise Tax Board
39 within 30 days of complying with the Employment Development
40 Department’s new hire reporting requirements as provided in

1 Section 1088.5 of the Unemployment Insurance Code, in the form
2 and manner prescribed by the Franchise Tax Board.

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

13 (3) The qualified taxpayer shall provide the Franchise Tax Board
14 an annual certification of employment with respect to each
15 qualified full-time employee hired in a previous taxable year, on
16 or before the 15th day of the third month of the taxable year. The
17 certification shall include necessary information, as determined
18 by the Franchise Tax Board, including the name, social security
19 number, start date of employment, and rate of pay for each qualified
20 full-time employee employed by the qualified taxpayer.

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

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

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

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

32 (3) A tentative credit reservation request from a qualified
33 taxpayer with respect to a qualified full-time employee who is a
34 resident of a targeted employment area, as defined in former
35 Section 7072 of the Government Code, as in effect on December
36 31, 2013, shall be expeditiously processed by the Franchise Tax
37 Board. The residence of a qualified full-time employee in a targeted
38 employment area shall have no other effect on the eligibility of an
39 individual as a qualified full-time employee or the eligibility of a
40 qualified taxpayer for the credit authorized by this section.

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

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

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

17 (h) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) For purposes of paragraph (1), the employment relationship
38 between the qualified taxpayer and a qualified full-time employee
39 shall not be treated as terminated by reason of a mere change in
40 the form of conducting the trade or business of the qualified

1 taxpayer, if the qualified full-time employee continues to be
2 employed in that trade or business and the qualified taxpayer retains
3 a substantial interest in that trade or business.

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

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

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

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

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

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

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

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

1 (n) (1) This section shall remain in effect only until December
2 1, 2024, and as of that date is repealed.

3 (2) Notwithstanding paragraph (1) of subdivision (a), this section
4 shall continue to be operative for taxable years beginning on or
5 after January 1, 2021, but only with respect to qualified full-time
6 employees who commenced employment with a qualified taxpayer
7 in a designated census tract or economic development area in a
8 taxable year beginning before January 1, 2021.

9 (3) This section shall remain operative for any qualified taxpayer
10 with respect to any qualified full-time employee after the
11 designated census tract is no longer designated or an economic
12 development area ceases to be an economic development area, as
13 defined in this section, for the remaining period, if any, of the
14 60-month period after the original date of hiring of an otherwise
15 qualified full-time employee and any wages paid or incurred with
16 respect to those qualified full-time employees after the designated
17 census tract is no longer designated or an economic development
18 area ceases to be an economic development area, as defined in this
19 section, shall be treated as qualified wages under this section,
20 provided the employee satisfies any other requirements of
21 paragraphs (10) and (12) of subdivision (b), as if the designated
22 census tract was still designated and binding or the economic
23 development area was still in existence.

24 SEC. 2. Section 23626 of the Revenue and Taxation Code is
25 amended to read:

26 23626. (a) (1) For each taxable year beginning on or after
27 January 1, 2014, and before January 1, 2021, there shall be allowed
28 to a qualified taxpayer that hires a qualified full-time employee
29 and pays or incurs qualified wages attributable to work performed
30 by the qualified full-time employee in a designated census tract
31 or economic development area, and that receives a tentative credit
32 reservation for that qualified full-time employee, a credit against
33 the "tax," as defined by Section 23036, in an amount calculated
34 under this section.

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

39 (3) (A) If a qualified taxpayer relocates to a designated census
40 tract or economic development area, the qualified taxpayer shall

1 be allowed a credit with respect to qualified wages for each
2 qualified full-time employee who is employed within the new
3 location only if the qualified taxpayer provides each employee at
4 the previous location or locations a written offer of employment
5 at the new location in the designated census tract or economic
6 development area with comparable compensation.

7 (B) For purposes of this paragraph, “relocates to a designated
8 census tract or economic development area” means an increase in
9 the number of qualified full-time employees, employed by a
10 qualified taxpayer, within a designated census tract or tracts or
11 economic development areas within a 12-month period in which
12 there is a decrease in the number of full-time employees, employed
13 by the qualified taxpayer in this state, but outside of designated
14 census tracts or economic development areas.

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

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

20 (b) For purposes of this section:

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

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

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

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

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

9 (6) “Annual full-time equivalent” means either of the following:

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

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

17 (7) “Designated census tract” means a census tract within the
18 state that is determined by the Department of Finance to have a
19 civilian unemployment rate that is within the top 25 percent of all
20 census tracts within the state and has a poverty rate within the top
21 25 percent of all census tracts within the state, as prescribed in
22 Section 13073.5 of the Government Code.

23 (8) “Economic development area” means either of the following:

24 (A) A former enterprise zone. For purposes of this section,
25 “former enterprise zone” means an enterprise zone designated and
26 in effect as of December 31, 2011, any enterprise zone designated
27 during 2012, and any revision of an enterprise zone prior to June
28 30, 2013, under former Chapter 12.8 (commencing with Section
29 7070) of Division 7 of Title 1 of the Government Code, as in effect
30 on December 31, 2012, excluding any census tract within an
31 enterprise zone that is identified by the Department of Finance
32 pursuant to Section 13073.5 of the Government Code as a census
33 tract within the lowest quartile of census tracts with the lowest
34 civilian unemployment and poverty.

35 (B) A local agency military base recovery area designated as
36 of the effective date of the act adding this subparagraph, in
37 accordance with Section 7114 of the Government Code.

38 (9) “Minimum wage” means the wage established pursuant to
39 Chapter 1 (commencing with Section 1171) of Part 4 of Division
40 2 of the Labor Code.

- 1 (10) (A) “Qualified full-time employee” means an individual
- 2 who meets all of the following requirements:
- 3 (i) Performs at least 50 percent of his or her services for the
- 4 qualified taxpayer during the taxable year in a designated census
- 5 tract or economic development area.
- 6 (ii) Receives starting wages that are at least 150 percent of the
- 7 minimum wage.
- 8 (iii) Is hired by the qualified taxpayer on or after January 1,
- 9 2014.
- 10 (iv) Is hired by the qualified taxpayer after the date the
- 11 Department of Finance determines that the census tract referred
- 12 to in clause (i) is a designated census tract or that the census tracts
- 13 within a former enterprise zone are not census tracts with the lowest
- 14 civilian unemployment and poverty.
- 15 (v) Satisfies either of the following conditions:
- 16 (I) Is paid qualified wages by the qualified taxpayer for services
- 17 not less than an average of 35 hours per week.
- 18 (II) Is a salaried employee and was paid compensation during
- 19 the taxable year for full-time employment, within the meaning of
- 20 Section 515 of the Labor Code, by the qualified taxpayer.
- 21 (vi) Upon commencement of employment with the qualified
- 22 taxpayer, satisfies any of the following conditions:
- 23 (I) Was unemployed for the six months immediately preceding
- 24 employment with the qualified taxpayer. In the case of an
- 25 individual who completed a program of study at a college,
- 26 university, or other postsecondary educational institution, received
- 27 a baccalaureate, postgraduate, or professional degree, and was
- 28 unemployed for the six months immediately preceding employment
- 29 with the qualified taxpayer, that individual must have completed
- 30 that program of study at least 12 months prior to the individual’s
- 31 commencement of employment with the qualified taxpayer.
- 32 ~~(II) (ia) For each taxable year beginning on or after January 1,~~
- 33 ~~2014, and before January 1, 2016, is a veteran who separated from~~
- 34 ~~service in the Armed Forces of the United States within the 12~~
- 35 ~~months preceding commencement of employment with the~~
- 36 ~~qualified taxpayer.~~
- 37 *(II) Is a veteran who separated from service in the Armed Forces*
- 38 *of the United States within the 12 months preceding commencement*
- 39 *of employment with the qualified taxpayer.*
- 40 (ib)

1 (III) For each taxable year beginning on or after January 1, 2016,
2 is a veteran who separated from service in the Armed Forces of
3 the United States within the 36 months preceding commencement
4 of employment with the qualified taxpayer. *taxpayer and was*
5 *unemployed for the six months immediately preceding employment*
6 *with the qualified taxpayer.*

7 ~~(III)~~

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

11 ~~(IV)~~

12 (V) Is an ex-offender previously convicted of a felony.

13 ~~(V)~~

14 (VI) Is a recipient of either CalWORKs, in accordance with
15 Article 2 (commencing with Section 11250) of Chapter 2 of Part
16 3 of Division 9 of the Welfare and Institutions Code, or general
17 assistance, in accordance with Section 17000.5 of the Welfare and
18 Institutions Code.

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

23 (11) (A) “Qualified taxpayer” means a corporation engaged in
24 a trade or business within a designated census tract or economic
25 development area that, during the taxable year, pays or incurs
26 qualified wages.

27 (B) In the case of any pass-thru entity, the determination of
28 whether a taxpayer is a qualified taxpayer under this section shall
29 be made at the entity level and any credit under this section or
30 Section 17053.73 shall be allowed to the pass-thru entity and
31 passed through to the partners and shareholders in accordance with
32 applicable provisions of this part or Part 10 (commencing with
33 Section 17001). For purposes of this subdivision, the term
34 “pass-thru entity” means any partnership or “S” corporation.

35 (C) “Qualified taxpayers” shall not include any of the following:

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

- 1 (ii) Employers that provide retail trade services, as described
- 2 in Sector 44-45 of the North American Industry Classification
- 3 System (NAICS) published by the United States Office of
- 4 Management and Budget, 2012 edition.
- 5 (iii) Employers that are primarily engaged in providing food
- 6 services, as described in Code 711110, 722511, 722513, 722514,
- 7 or 722515 of the North American Industry Classification System
- 8 (NAICS) published by the United States Office of Management
- 9 and Budget, 2012 edition.
- 10 (iv) Employers that are primarily engaged in services as
- 11 described in Code 713210, 721120, or 722410 of the North
- 12 American Industry Classification System (NAICS) published by
- 13 the United States Office of Management and Budget, 2012 edition.
- 14 (v) (I) An employer that is a sexually oriented business.
- 15 (II) For purposes of this clause:
- 16 (ia) “Sexually oriented business” means a nightclub, bar,
- 17 restaurant, or similar commercial enterprise that provides for an
- 18 audience of two or more individuals live nude entertainment or
- 19 live nude performances where the nudity is a function of everyday
- 20 business operations and where nudity is a planned and intentional
- 21 part of the entertainment or performance.
- 22 (ib) “Nude” means clothed in a manner that leaves uncovered
- 23 or visible, through less than fully opaque clothing, any portion of
- 24 the genitals or, in the case of a female, any portion of the breasts
- 25 below the top of the areola of the breasts.
- 26 (D) Subparagraph (C) shall not apply to a taxpayer that is a
- 27 “small business.”
- 28 (12) “Qualified wages” means those wages that meet all of the
- 29 following requirements:
- 30 (A) (i) Except as provided in clause (ii), that portion of wages
- 31 paid or incurred by the qualified taxpayer during the taxable year
- 32 to each qualified full-time employee that exceeds 150 percent of
- 33 the minimum wage, but does not exceed 350 percent of the
- 34 minimum wage.
- 35 (ii) (I) In the case of a qualified full-time employee employed
- 36 in a designated pilot area, that portion of wages paid or incurred
- 37 by the qualified taxpayer during the taxable year to each qualified
- 38 full-time employee that exceeds ten dollars (\$10) per hour or an
- 39 equivalent amount for salaried employees, but does not exceed
- 40 350 percent of the minimum wage. For qualified full-time

1 employees described in the preceding sentence, clause (ii) of
2 subparagraph (A) of paragraph (10) is modified by substituting
3 “ten dollars (\$10) per hour or an equivalent amount for salaried
4 employees” for “150 percent of the minimum wage.”

5 (II) For purposes of this clause:

6 (ia) “Designated pilot area” means an area designated as a
7 designated pilot area by the Governor’s Office of Business and
8 Economic Development.

9 (ib) Areas that may be designated as a designated pilot area are
10 limited to areas within a designated census tract or an economic
11 development area with average wages less than the statewide
12 average wages, based on information from the Labor Market
13 Division of the Employment Development Department, and areas
14 within a designated census tract or an economic development area
15 based on high poverty or high unemployment.

16 (ic) The total number of designated pilot areas that may be
17 designated is limited to five, one or more of which must be an area
18 within five or fewer designated census tracts within a single county
19 based on high poverty or high unemployment or an area within an
20 economic development area based on high poverty or high
21 unemployment.

22 (id) The designation of a designated pilot area shall be applicable
23 for a period of four calendar years, commencing with the first
24 calendar year for which the designation of a designated pilot area
25 is effective. The applicable period of a designated pilot area may
26 be extended, in the sole discretion of the Governor’s Office of
27 Business and Economic Development, for an additional period of
28 up to three calendar years. The applicable period, and any extended
29 period, shall not extend beyond December 31, 2020.

30 (III) The designation of an area as a designated pilot area and
31 the extension of the applicable period of a designated pilot area
32 shall be at the sole discretion of the Governor’s Office of Business
33 and Economic Development and shall not be subject to
34 administrative appeal or judicial review.

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

1 constituting commencement of employment for purposes of this
2 section.

3 (C) Except as provided in paragraph (3) of subdivision (m),
4 qualified wages shall not include any wages paid or incurred by
5 the qualified taxpayer on or after the date that the Department of
6 Finance's redesignation of designated census tracts is effective,
7 as provided in paragraph (2) of subdivision (g), so that a census
8 tract is no longer a designated census tract.

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

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

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

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

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

32 (C) (i) "Small business" shall not include a sexually oriented
33 business.

34 (ii) For purposes of this subparagraph:

35 (I) "Sexually oriented business" means a nightclub, bar,
36 restaurant, or similar commercial enterprise that provides for an
37 audience of two or more individuals live nude entertainment or
38 live nude performances where the nudity is a function of everyday
39 business operations and where nudity is a planned and intentional
40 part of the entertainment or performance.

1 (II) “Nude” means clothed in a manner that leaves uncovered
2 or visible, through less than fully opaque clothing, any portion of
3 the genitals or, in the case of a female, any portion of the breasts
4 below the top of the areola of the breasts.

5 (15) An individual is “unemployed” for any period for which
6 the individual is all of the following:

7 (A) Not in receipt of wages subject to withholding under Section
8 13020 of the Unemployment Insurance Code for that period.

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

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

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

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

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

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

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

30 (d) For purposes of this section:

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

34 (2) In determining whether the taxpayer has first commenced
35 doing business in this state during the taxable year, the provisions
36 of subdivision (g) of Section 24416.20, without application of
37 paragraph (7) of that subdivision, shall apply.

38 (e) (1) To be eligible for the credit allowed by this section, a
39 qualified taxpayer shall, upon hiring a qualified full-time employee,
40 request a tentative credit reservation from the Franchise Tax Board

1 within 30 days of complying with the Employment Development
2 Department's new hire reporting requirements as provided in
3 Section 1088.5 of the Unemployment Insurance Code, in the form
4 and manner prescribed by the Franchise Tax Board.

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

15 (3) The qualified taxpayer shall provide the Franchise Tax Board
16 an annual certification of employment with respect to each
17 qualified full-time employee hired in a previous taxable year, on
18 or before the 15th day of the third month of the taxable year. The
19 certification shall include necessary information, as determined
20 by the Franchise Tax Board, including the name, social security
21 number, start date of employment, and rate of pay for each qualified
22 full-time employee employed by the qualified taxpayer.

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

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

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

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

34 (3) A tentative credit reservation request from a qualified
35 taxpayer with respect to a qualified full-time employee who is a
36 resident of a targeted employment area, as defined in former
37 Section 7072 of the Government Code, as in effect on December
38 31, 2013, shall be expeditiously processed by the Franchise Tax
39 Board. The residence of a qualified full-time employee in a targeted
40 employment area shall have no other effect on the eligibility of an

1 individual as a qualified full-time employee or the eligibility of a
2 qualified taxpayer for the credit authorized by this section.

3 (4) Notwithstanding Section 19542, provide as a searchable
4 database on its Internet Web site, for each taxable year beginning
5 on or after January 1, 2014, and before January 1, 2021, the
6 employer names, amounts of tax credit claimed, and number of
7 new jobs created for each taxable year pursuant to this section and
8 Section 17053.73.

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

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

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

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

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

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

30 (D) If a qualified taxpayer acquires the major portion of a trade
31 or business of another taxpayer, hereinafter in this paragraph
32 referred to as the predecessor, or the major portion of a separate
33 unit of a trade or business of a predecessor, then, for purposes of
34 applying this section for any taxable year ending after that
35 acquisition, the employment relationship between a qualified
36 full-time employee and a qualified taxpayer shall not be treated
37 as terminated if the employee continues to be employed in that
38 trade or business.

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

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

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

10 (3) Rules similar to the rules provided in Sections 46(e) and
 11 46(h) of the Internal Revenue Code, as in effect on November 4,
 12 1990, shall apply to both of the following:

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

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

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

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

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

31 (B) A termination of employment of a qualified full-time
 32 employee who, before the close of the period referred to in
 33 paragraph (1), becomes disabled and unable to perform the services
 34 of that employment, unless that disability is removed before the
 35 close of that period and the qualified taxpayer fails to offer
 36 reemployment to that employee.

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

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

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

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

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

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

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

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

35 (l) (1) Upon the effective date of this section, the Department
36 of Finance shall estimate the total dollar amount of credits that
37 will be claimed under this section with respect to each fiscal year
38 from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

39 (2) The Franchise Tax Board shall annually provide to the Joint
40 Legislative Budget Committee, by no later than March 1, a report

1 of the total dollar amount of the credits claimed under this section
2 with respect to the relevant fiscal year. The report shall compare
3 the total dollar amount of credits claimed under this section with
4 respect to that fiscal year with the department's estimate with
5 respect to that same fiscal year. If the total dollar amount of credits
6 claimed for the fiscal year is less than the estimate for that fiscal
7 year, the report shall identify options for increasing annual claims
8 of the credit so as to meet estimated amounts.

9 (m) (1) This section shall remain in effect only until December
10 1, 2024, and as of that date is repealed.

11 (2) Notwithstanding paragraph (1) of subdivision (a), this section
12 shall continue to be operative for taxable years beginning on or
13 after January 1, 2021, but only with respect to qualified full-time
14 employees who commenced employment with a qualified taxpayer
15 in a designated census tract or economic development area in a
16 taxable year beginning before January 1, 2021.

17 (3) This section shall remain operative for any qualified taxpayer
18 with respect to any qualified full-time employee after the
19 designated census tract is no longer designated or an economic
20 development area ceases to be an economic development area, as
21 defined in this section, for the remaining period, if any, of the
22 60-month period after the original date of hiring of an otherwise
23 qualified full-time employee and any wages paid or incurred with
24 respect to those qualified full-time employees after the designated
25 census tract is no longer designated or an economic development
26 area ceases to be an economic development area, as defined in this
27 section, shall be treated as qualified wages under this section,
28 provided the employee satisfies any other requirements of
29 paragraphs (10) and (12) of subdivision (b), as if the designated
30 census tract was still designated and binding or the economic
31 development area was still in existence.

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

O