

AMENDED IN ASSEMBLY MARCH 24, 2011

AMENDED IN ASSEMBLY MARCH 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 231

**Introduced by Assembly Members V. Manuel Pérez and Alejo
(Coauthors: Assembly Members Bradford, Galgiani,
Roger Hernández, Hueso, Perea, and Solorio)**

February 2, 2011

An act to amend Sections 7070, 7071, 7072, 7072.5, 7073.1, 7076, 7076.1, 7081, 7085, 7085.1, 7085.5, and 7114.2 of, to amend the heading of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of, to add Section 7072.6 to, to repeal Sections 7073.8 and 7073.9 of, and to repeal Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of, the Government Code, and to amend Sections 17053.45, 17053.46, 17053.70, 17235, 23612.2, 23645, 23646, and 24384.5 of, to amend and repeal Sections 17053.34, 17053.47, 17053.74, 23622.7, 23622.8, and 23634 of, to add Sections 17053.73 and 23622.6 to, and to add and repeal Sections 17050 and 23036.3 of, the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 231, as amended, V. Manuel Pérez. Economic development: economic development areas.

(1) The Enterprise Zone Act provides for the designation and oversight by the Department of Housing and Community Development of various types of economic development areas throughout the state, including enterprise zones, targeted tax areas, local agency military

base recovery areas (LAMBRAs), and Manufacturing Enhancement Areas, collectively known as geographically targeted economic development areas, or G-TEDAs. Pursuant to these provisions, qualifying entities in those areas may receive certain tax and regulatory incentives.

This bill would rename the act as the California Economic and Community Development Zone Act.

This bill would delete the provisions governing Manufacturing Enhancement Areas and targeted tax areas, and make various revisions in the requirements for designating and administering enterprise zones and LAMBRAs, and G-TEDA collectively.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone or a LAMBRA, including a credit for a specified percentage of wages paid during the taxable year to a qualified employee, as defined, who is employed by the taxpayer during the taxable year in an enterprise zone or a LAMBRA.

This bill would, with respect to employees hired before January 1, 2011, increase specified requirements for an individual to be a qualified employee for purposes of the enterprise zone hiring credits, and make other specified changes relating to the requirements for a taxpayer to take advantage of the credits.

This bill would, with respect to employees hired after January 1, 2011, create a new enterprise zone and LAMBRA hiring credit, similar to the enterprise zone hiring credit in existing law, except that the credit would be available only for a qualified employee for each of the first 3 years of employment and modify the applicable percentage amounts. This bill would impose specified requirements for a taxpayer to claim this credit, including a registration requirement made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program. This bill would also limit the carryover period to 15 years.

This bill would, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, impose a specified 50% overall limitation on these credits, as provided.

(3) The Personal Income Tax Law and the Corporation Tax Law allow a credit in an amount equal to the amount of sales or use tax paid in connection with qualified property that is purchased and placed in service during the taxable year by a taxpayer engaged in a trade or

business in an enterprise zone or LAMBRA, and allow unused credits to be carried over indefinitely to subsequent taxable years.

This bill would require the taxpayer to register, as specified, a business in an enterprise zone or a LAMBRA before the taxpayer can claim a credit, and would limit the carryover period to 15 years. This bill would also impose a specified 50% overall limitation on these credits as provided.

(4) The Personal Income Tax Law and the Corporation Tax Law allow deductions in the amount of net interest received by a taxpayer in payment of a debt of a person or entity engaged in a trade or business in an enterprise zone.

This bill would, *for taxable years beginning on or after January 1, 2011, and before January 1, 2013*, limit the amount of these deductions to 50% of the net interest received by a taxpayer in payment of debt, as specified.

(5) The Personal Income Tax Law and the Corporation Tax Law allow specified credits for hiring employees in a targeted tax area and manufacturing enhancement area.

This bill would limit the credits to qualified employees hired by a qualified taxpayer before January 1, 2011.

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

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

(7) 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.

(8) This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. The heading of Chapter 12.8 (commencing with
- 2 Section 7070) of Division 7 of Title 1 of the Government Code is
- 3 amended to read:

1 CHAPTER 12.8. ~~ENTERPRISE~~ CALIFORNIA ECONOMIC AND
2 COMMUNITY DEVELOPMENT ZONE ACT

3
4 SEC. 2. Section 7070 of the Government Code is amended to
5 read:

6 7070. (a) This chapter shall be known and may be cited as the
7 ~~Enterprise~~ California Economic and Community Development
8 Zone Act.

9 (b) Wherever the term “Enterprise Zone Act” appears in statute
10 or regulation, it shall be construed to refer to the California
11 Economic and Community Development Zone Act.

12 SEC. 3. Section 7071 of the Government Code is amended to
13 read:

14 7071. The Legislature finds and declares as follows:

15 (a) The health, safety, and welfare of the people of California
16 depend upon the development, stability, and expansion of private
17 business, industry, and commerce, and there are certain areas within
18 the state that are economically depressed due to a lack of
19 investment in the private sector. Therefore, it is declared to be the
20 purpose of this chapter to *help stabilize local communities, alleviate*
21 *poverty, and enhance the state’s economic prosperity through the*
22 *implementation of public and privately funded programs and*
23 *services that stimulate business and industrial growth in the*
24 *depressed areas of the state by relaxing regulatory controls that*
25 *impede private investment.*

26 (b) *The geographically targeted economic development area*
27 *(G-TEDA) programs are based on the economic principle that*
28 *targeting significant incentives to lower income communities allows*
29 *these communities to more effectively compete for new businesses*
30 *and retain existing businesses, which results in increased tax*
31 *revenues, less reliance on social services, and lower public safety*
32 *costs. Residents and businesses also directly benefit from these*
33 *more sustainable economic conditions through improved*
34 *neighborhoods, business expansion, and job creation.*

35 ~~(b) It~~

36 (c) *Therefore, it is in the economic interest of the state to have*
37 *one strong, combined, and business-friendly business- and*
38 *community development-friendly incentive program to help attract*
39 *business and industry to the state, to help retain and expand existing*

1 state business and industry, and to create increased job
2 opportunities for all Californians.

3 ~~(c) No enterprise zone shall be designated in which any~~
4 ~~boundary thereof is drawn in a manner so as to include larger stable~~
5 ~~businesses or heavily residential areas to the detriment of areas~~
6 ~~that are truly economically depressed.~~

7 (d) Nothing in this chapter shall be construed to infringe upon
8 regulations relating to the civil rights, equal employment rights,
9 equal opportunity rights, or fair housing rights of any person.

10 SEC. 4. *Section 7072 of the Government Code is amended to*
11 *read:*

12 7072. For purposes of this chapter, the following definitions
13 shall apply:

14 (a) "Department" means the Department of Housing and
15 Community Development.

16 (b) "Date of original designation" means the earlier of the
17 following:

18 (1) The date the eligible area receives designation as an
19 enterprise zone by the department pursuant to this chapter.

20 (2) In the case of an enterprise zone deemed designated pursuant
21 to subdivision (e) of Section 7073, the date the enterprise zone or
22 program area received original designation by the former Trade
23 and Commerce Agency pursuant to Chapter 12.8 (commencing
24 with Section 7070) or Chapter 12.9 (commencing with Section
25 7080), as those chapters read prior to January 1, 1997.

26 (c) "Eligible area" means any of the following:

27 (1) (A) An area designated as an enterprise zone pursuant to
28 Chapter 12.8 (commencing with Section 7070), as it read prior to
29 January 1, 1997, or as a targeted economic development area,
30 neighborhood development area, or program area pursuant to
31 Chapter 12.9 (commencing with Section 7080), as it read prior to
32 January 1, 1997.

33 ~~(2) A geographic area that, based upon the determination of the~~
34 ~~department, fulfills at least one of the following criteria:~~

35 ~~(A) The proposed geographic area meets the Urban Development~~
36 ~~Action Grant criteria of the United States Department of Housing~~
37 ~~and Urban Development.~~

38 ~~(B) The area within the proposed eligible area has experienced~~
39 ~~plant closures within the past two years affecting more than 100~~
40 ~~workers.~~

1 ~~(C) The city or county has submitted material to the department~~
2 ~~for a finding that the proposed geographic area meets criteria of~~
3 ~~economic distress related to those used in determining eligibility~~
4 ~~under the Urban Development Action Grant Program and is~~
5 ~~therefore an eligible area.~~

6 ~~(D) The area within the proposed zone has a history of~~
7 ~~gang-related activity, whether or not crimes of violence have been~~
8 ~~committed.~~

9 ~~(3) A geographic area that meets at least two of the following~~
10 ~~criteria:~~

11 ~~(B) A geographic area within census tracts of the proposed~~
12 ~~eligible area with a median household income for a family of four~~
13 ~~that does not exceed 80 percent of the statewide median income~~
14 ~~for the most recently available calendar year, as well as meeting~~
15 ~~at least one of the following criteria:~~

16 ~~(A)~~

17 ~~(i) The census tracts within the proposed eligible area have an~~
18 ~~unemployment rate not less than 3 percentage points above the~~
19 ~~statewide average for the most recent calendar year as determined~~
20 ~~by the Employment Development Department.~~

21 ~~(B)~~

22 ~~(ii) The county of census tracts for the proposed eligible area~~
23 ~~has are served by public schools that have more than 70 percent~~
24 ~~of the children enrolled in public school participating in the federal~~
25 ~~free lunch program.~~

26 ~~(C) The median household income for a family of four within~~
27 ~~the census tracts of the proposed eligible area does not exceed 80~~
28 ~~percent of the statewide median income for the most recently~~
29 ~~available calendar year.~~

30 ~~(iii) The area within the proposed zone has experienced~~
31 ~~significant distress factors, as defined by the department, including,~~
32 ~~but not limited to, a history of significant gang-related activity,~~
33 ~~high crime rates, or a significant number of plant or business~~
34 ~~closures, or all of these.~~

35 ~~(2) The amendments made to this subdivision during the 2011~~
36 ~~portion of the 2011–12 Regular Session shall apply only to requests~~
37 ~~for proposals issued on or after January 1, 2011.~~

38 ~~(d) “Enterprise zone” means any area within a city, county, or~~
39 ~~city and county that is designated as an enterprise zone by the~~
40 ~~department in accordance with Section Sections 7073 and 7073.3~~

1 *that include an eligible area and a qualifying commercial or*
 2 *industrial area, or both, as defined by the department.*

3 (e) “Governing body” means a county board of supervisors or
 4 a city council, as appropriate.

5 (f) “G-TEDA” means a geographically targeted economic
 6 development area, which is an area designated as an enterprise
 7 zone, ~~a Manufacturing Enhancement Area, a targeted tax area,~~ or
 8 a local agency military base recovery area.

9 (g) “High-technology industries” includes, but is not limited to,
 10 the computer, biological engineering, electronics, and
 11 telecommunications industries.

12 (h) “Resident,” unless otherwise defined, means a person whose
 13 principal place of residence is within a targeted employment area.

14 (i) (1) ~~“Targeted—~~With respect to a targeted employment area
 15 ~~adopted or amended prior to April 1, 2011,~~ “targeted employment
 16 area” means an area within a city, county, or city and county that
 17 is composed solely of those census tracts designated by the United
 18 States Department of Housing and Urban Development as having
 19 at least 51 percent of its residents of low- or moderate-income
 20 levels, using either the most recent United States ~~Department of~~
 21 Census *Bureau* data available at the time of the original enterprise
 22 zone application or the most recent census data available at the
 23 time the targeted employment area is designated to determine that
 24 eligibility. The purpose of a “targeted employment area” is to
 25 encourage businesses in an enterprise zone to hire eligible residents
 26 of certain geographic areas within a city, county, or city and county.
 27 A targeted employment area may be, but is not required to be, the
 28 same as all or part of an enterprise zone. A targeted employment
 29 area’s boundaries need not be contiguous. A targeted employment
 30 area does not need to encompass each eligible census tract within
 31 a city, county, or city and county. The governing body of each
 32 city, county, or city and county that has jurisdiction of the
 33 enterprise zone shall identify those census tracts whose residents
 34 are in the most need of this employment targeting. Only those
 35 census tracts within the jurisdiction of the city, county, or city and
 36 county that has jurisdiction of the enterprise zone may be included
 37 in a targeted employment area.

38 (2) At least a part of each eligible census tract within a targeted
 39 employment area shall be within the territorial jurisdiction of the
 40 city, county, or city and county that has jurisdiction for an

1 enterprise zone. If an eligible census tract encompasses the
2 territorial jurisdiction of two or more local governmental entities,
3 all of those entities shall be a party to the designation of a targeted
4 employment area. However, any one or more of those entities, by
5 resolution or ordinance, may specify that it shall not participate in
6 the application as an applicant, but shall agree to complete all
7 actions stated within the application that apply to its jurisdiction,
8 if the area is designated.

9 (3) Each local governmental entity of each city, county, or city
10 and county that has jurisdiction of an enterprise zone shall approve,
11 by resolution or ordinance, the boundaries of its targeted
12 employment area, regardless of whether a census tract within the
13 proposed targeted employment area is outside the jurisdiction of
14 the local governmental entity.

15 (4) (A) Within 180 days of updated United States census data
16 becoming available, each local governmental entity of each city,
17 county, or city and county that has jurisdiction of an enterprise
18 zone shall approve, by resolution or ordinance, boundaries of its
19 targeted employment area reflecting the new census data. If no
20 changes are necessary to the boundaries based on the most current
21 census data, the enterprise zone may send a letter to the department
22 stating that a review has been undertaken by the respective local
23 governmental entities and no boundary changes are required.

24 (B) A targeted employment area boundary approved prior to
25 the 2000 United States census data becoming available that has
26 not been reviewed and its boundaries revised to reflect the most
27 recent census data, shall be reviewed and updated, and a new
28 resolution or ordinance submitted by the appropriate local
29 governmental entity to the department, by July 1, 2007. However,
30 enterprise zones that expire on or prior to December 31, 2008,
31 shall be exempt from the update requirement.

32 (5) *With respect to a targeted employment area adopted or*
33 *amended on or after April 1, 2011, “targeted employment area”*
34 *means an area within a city, county, or city and county that is*
35 *composed solely of those census block groups designated by the*
36 *United States Department of Housing and Urban Development as*
37 *having at least 51 percent of their residents of low-income levels,*
38 *using the most recent United States Census Bureau data available*
39 *at the time the targeted employment area is adopted or amended*
40 *to determine its eligibility.*

1 SEC. 5. Section 7072.5 of the Government Code is amended
2 to read:

3 7072.5. (a) By April 1, 1998, a governing body that has already
4 ~~designated~~ adopted a ~~target~~ targeted employment area may request,
5 by a resolution of all cities or counties having jurisdiction over the
6 enterprise zone, to ~~re-designate~~ readopt the targeted employment
7 area using more current census data. A targeted employment area
8 ~~shall be comprised of~~ comprise census tracts from only one
9 decennial census.

10 (b) This section shall apply only to targeted employment areas
11 adopted prior to April 1, 2011.

12 SEC. 6. Section 7072.6 is added to the Government Code, to
13 read:

14 7072.6. (a) After receiving notification from the department
15 of being conditionally designated as an enterprise zone, the
16 governing body of the jurisdiction administering the enterprise
17 zone shall adopt a resolution or ordinance adopting a targeted
18 employment area that meets all the conditions of this section and
19 those set forth in paragraph (2) of subdivision (i) of Section 7072,
20 and is consistent with the purposes set forth in this section. If two
21 or more jurisdictions are jointly administering an enterprise zone,
22 a resolution or ordinance adopting the targeted employment area
23 shall be adopted by each governing body.

24 (b) A targeted employment area serves as the residential base
25 of potential low-income workers who are available to work in
26 businesses located in an enterprise zone. The purpose of a targeted
27 employment area is to help identify neighborhoods of low-income
28 workers for the purpose of providing those workers with
29 employment assistance, training, and job placement. Businesses
30 located in an enterprise zone are encouraged to hire locally to
31 help address some of the poverty and economic dislocation that
32 led to the area's designation as an enterprise zone.

33 (c) (1) A targeted employment area may be, but is not required
34 to be, the same as all or part of an enterprise zone. A targeted
35 employment area's boundaries need not be contiguous. A targeted
36 employment area does not need to encompass each eligible census
37 tract or block group within a city, county, or city and county. The
38 governing body of each city, county, or city and county that has
39 jurisdiction over the zone shall identify those census block groups
40 whose residents are in the most need of this employment targeting.

1 Only those census block groups within the jurisdiction of the city,
2 county, or city and county that have jurisdiction over the zone may
3 be included in a targeted employment area.

4 (2) At least part of each eligible census block group within a
5 targeted employment area shall be within the territorial jurisdiction
6 of the city, county, or city and county that has jurisdiction over an
7 enterprise zone. If an eligible census tract encompasses the
8 territorial jurisdiction of two or more local governmental entities,
9 all of those entities shall be a party to the designation of the
10 targeted employment area. However, any one or more of those
11 entities, by resolution or ordinance, may specify that it or they
12 shall not participate in the application as an applicant or
13 applicants, but shall agree to complete all actions stated within
14 the application that apply to its or their jurisdiction, if the area is
15 designated.

16 (d) (1) A targeted employment area shall be designated based
17 on data from the most current household income data published
18 by the United States Census Bureau at the time that the targeted
19 employment area is designated or modified, including being
20 updated pursuant to paragraph (2).

21 (2) Every targeted employment area boundary shall be reviewed
22 and updated to the extent necessary to accommodate the new
23 household income data provided by the United States Census
24 Bureau in its five-year American Community Survey. Each
25 governmental entity of each city, county, or city and county that
26 has jurisdiction over an enterprise zone shall approve, by
27 resolution or ordinance, the boundaries of its targeted employment
28 area reflecting the new household data and send a copy of its
29 resolution with the changes that are necessary to the boundaries
30 based on the most current census data, or the governmental entity
31 that has jurisdiction over the zone shall send a letter to the
32 department stating that the review has been undertaken by the
33 respective local governmental entities and no boundary changes
34 are required.

35 (3) (A) A targeted employment area boundary that is not
36 updated, or for which a letter indicating that no changes are
37 necessary has not been received by the department within 180
38 days of the release of new household data, is invalidated for a
39 period of two years, except as modified by subparagraph (C).

1 (B) The department shall send a notice to the Franchise Tax
2 Board and the local enterprise zone administrator that the targeted
3 employment area is invalid and that no additional employees will
4 be certified based on an employee living in a targeted employment
5 area, other than a business that has already had one or more
6 vouchers certified by the zone using the targeted employment area
7 as the qualifying criterion under subparagraph (A) of paragraph
8 (4) of subdivision (b) of Sections 17053.74 and 23622.7 of the
9 Revenue and Taxation Code.

10 (C) A business that has previously received certification of an
11 employee is exempt from subparagraph (A). The vouchering
12 exemption is nontransferable to any other business.

13 (e) This section shall apply only to targeted employment areas
14 adopted on or after April 1, 2011.

15 SEC. 7. Section 7073.1 of the Government Code is amended
16 to read:

17 7073.1. (a) Except as provided in subdivision ~~(e)~~ (f), any city,
18 county, or city and county with an eligible area within its
19 jurisdiction may complete a preliminary application for designation
20 as an enterprise zone. The applying entity shall establish definitive
21 boundaries for the proposed enterprise zone and the targeted
22 employment area. An entity may propose zones in areas with
23 noncontiguous boundaries, and the department may designate those
24 areas as zones if the director determines both of the following:

25 (1) The noncontiguous area is needed to implement the
26 applicant's economic development strategy.

27 (2) The excluded area between the proposed zone boundaries
28 would not, based on the proposed economic strategy, also benefit
29 from the zone designation.

30 (b) If a census block group or portion of a census block group
31 included in an enterprise zone proposed in an application
32 submitted to the department on or after January 1, 2011, is within,
33 or previously was within, the boundaries of a previously designated
34 enterprise zone, then the aggregate size of the proposed enterprise
35 zone shall not exceed the size of the previously designated
36 enterprise zone by more than 15 percent.

37 ~~(b)~~

38 (c) (1) In designating enterprise zones, the department shall
39 select from the applications submitted those proposed enterprise
40 zones that, upon a comparison of all of the applications submitted,

1 indicate that they propose the most appropriate economic
2 development strategy and implementation plan utilizing state and
3 local programs and incentives to create jobs, attract private sector
4 investment, and improve the economic conditions within the zone
5 proposed. The department shall prescribe a format that promotes
6 succinct and focused strategies and plans, and set minimum
7 standards for the strategies and plans. For the purposes of this
8 subdivision, important elements of a strategy or plan may include,
9 but are not limited to, all of the following:

10 (A) An assessment of current financial and community
11 development strengths, needs, and opportunities.

12 (B) A framework for investment of time, action, and money.

13 (C) Clear articulation of goals.

14 (D) Measurable objectives, including targets.

15 (E) Proposed implementation activities and tasks, including
16 timeframes, and a framework for evaluating performance, including
17 qualitative and quantitative benchmarks.

18 *(F) An identification of local resources, including incentives,*
19 *the jurisdiction will utilize to implement the strategy or plan and*
20 *how those resources will help to leverage or maximize the benefit*
21 *of state resources that become available for enterprise zone*
22 *communities.*

23 (2) For purposes of this subdivision, ~~local incentives resources~~
24 may include, but are not limited to, all of the following:

25 (A) The suspension or relaxation of locally originated or
26 modified building codes, zoning laws, general development plans,
27 or rent controls.

28 (B) The elimination or reduction of fees for applications,
29 permits, and local government services.

30 (C) The establishment of a streamlined permit process.

31 (D) Elimination or reduction of construction taxes or business
32 license taxes.

33 (E) The provision or expansion of infrastructure.

34 (F) The targeting of federal block grant moneys, including small
35 cities, education, and health and welfare block grants.

36 (G) The targeting of economic development grants and loan
37 moneys, including grant and loan moneys provided by the United
38 States Department of Housing and Urban Development.

39 (H) The targeting of state and federal job disadvantaged and
40 vocational education grant moneys, including moneys provided

1 by the federal Workforce Investment Act of 1998 (Public Law
2 105-220), or its successor.

3 (I) The targeting of federal or state transportation grant moneys.

4 (J) The targeting of federal or state low-income housing and
5 rental assistance moneys.

6 (K) The use of tax allocation bonds, special assessment bonds,
7 bonds under the Mello-Roos Community Facilities Act of 1982
8 (Chapter 2.5 (commencing with Section 53311) of Part 1 of
9 Division 2 of Title 5), industrial development bonds, revenue
10 bonds, private activity bonds, housing bonds, bonds issued pursuant
11 to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4
12 (commencing with Section 6584) of Chapter 5), certificates of
13 participation, hospital bonds, redevelopment bonds, school bonds,
14 and all special provisions provided for under federal tax law for
15 enterprise community or empowerment zone bonds.

16 (L) *Redevelopment tax increment moneys and local financing*
17 *authorities.*

18 (M) *Federal Workforce Investment Act moneys and programs*
19 *funded with those moneys.*

20 (N) *Federal Community Development Block Grant Program*
21 *moneys.*

22 (O) *CalWORKs funding and other related resources.*

23 (P) *Local education entities, including K–12, adult education,*
24 *community colleges, and public and private universities.*

25 (3) When designating new enterprise zones, the department
26 shall take into consideration the location of existing zones and
27 make every effort to locate new zones in a manner that will not
28 adversely affect any existing zones.

29 (4) When reviewing and ranking new enterprise zone
30 applications, the department shall give bonus points to applications
31 from jurisdictions that meet minimum threshold points and ~~at least~~
32 ~~two~~ *both* of the following criteria:

33 (A) The percentage of households within the census ~~tracts~~ *block*
34 *groups* of the proposed enterprise zone area, the income of which
35 is below the poverty level, is at least ~~17.5~~ *20* percent.

36 (B) The average unemployment rate for the census ~~tracts~~ *block*
37 *groups* of the proposed enterprise zone area was not less than five
38 percentage points above the statewide average for the most recent
39 calendar year as determined by the Employment Development
40 Department.

1 ~~(C) The applicant jurisdiction has, and can document that it has,~~
2 ~~a unique distress factor affecting long-term economic development,~~
3 ~~including, but not limited to, resource depletion, plant closure,~~
4 ~~industry recession, natural disaster, or military base closure.~~

5 (5) Except as modified pursuant to paragraph (4), applications
6 shall be ranked by the appropriateness of the economic
7 development strategy and implementation plan, including all of
8 the following:

9 (A) The extent the strategy clearly identifies the local resources,
10 incentives, and programs that will be made available to the zone
11 for meeting its goals and objectives.

12 (B) The extent the strategy provides for attracting private sector
13 investment.

14 (C) The extent the strategy includes related regional and
15 community-based partnerships for achieving the goals and
16 objectives in the strategy.

17 (D) The extent the strategy fits within the jurisdiction's overall
18 economic development strategy, including the extent the strategy
19 and implementation plan is appropriate for the local community.

20 (E) The extent the strategy addresses the hiring and retention
21 of unemployed or underemployed residents or low-income
22 individuals in the proposed zone and surrounding areas.

23 (F) The extent the strategy sets reasonable and measurable
24 benchmarks, goals, and objectives.

25 (G) The extent the strategy sets forth an appropriate funding
26 schedule for management, oversight, and program delivery within
27 the zone relative to the benchmarks, goals, and objectives in the
28 strategy.

29 (H) The extent that the economic development strategy has a
30 comprehensive incentive package for attracting private investment
31 to the enterprise zone.

32 ~~(e)~~

33 (d) In evaluating applications for designation, the department
34 shall ensure that applications are not disqualified solely because
35 of technical deficiencies, and shall provide applicants with an
36 opportunity to correct the deficiencies. Applications shall be
37 disqualified if the deficiencies are not corrected within two weeks.

38 ~~(d)~~

39 (e) Except upon dedesignation pursuant to subdivision (c) of
40 Section 7076.1, Section 7076.2, or Section 7085.1, a designation

made by the department shall be binding for a period of 15 years from the date of the original designation.

(f) The applicant shall be required to begin implementation of the enterprise zone plan contained in the final application within six months after notification of final designation, or the enterprise zone shall be dedesignated.

(e)

(g) (1) This section shall only apply only to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations on or after January 1, 2007.

(2) The amendments made to this section during the 2011 portion of the 2011–12 Regular Session shall apply only to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations on or after January 1, 2011.

SEC. 8. Section 7073.8 of the Government Code is repealed.

~~7073.8. (a) The department shall designate up to two Manufacturing Enhancement Areas requested by the governing boards of cities each of which shall meet at least the following criteria:~~

~~(1) The unemployment rate in the county in which the applicant is located has been at least three times the state average from 1990 to 1995, inclusive.~~

~~(2) The applicant city is, or portions of the city are, designated a federal enterprise community or empowerment zone pursuant to Subchapter U (commencing with Section 1391) of Chapter 1 of Subtitle A of Title 26 of the United States Code.~~

~~(3) The applicant city is located in a Border Environment Cooperation Commission region as specified in Section 3473 of Title 19 of the United States Code.~~

~~(4) At least one of the following:~~

~~(A) The designated area has grown by less than 5 percent in population per year for each of the two years preceding the application date.~~

~~(B) The median household income for the designated area is under twenty-five thousand dollars (\$25,000) per year.~~

~~(C) The designated area has a population of under 20,000 persons according to the 1990 federal census.~~

~~(D) The designated area is located in a rural community.~~

1 ~~(5) An audit of the program shall be made pursuant to Section~~
2 ~~7076.1 by the department with the cooperation of the local~~
3 ~~governing board. The audit shall be used to determine how~~
4 ~~effective the designation has been in attracting manufacturing~~
5 ~~facilities and creating new employment opportunities. Continuation~~
6 ~~of the designation is contingent on evidence of success of the~~
7 ~~program.~~

8 ~~(b) For purposes of applying any provision of the Revenue and~~
9 ~~Taxation Code, any Manufacturing Enhancement Area designated~~
10 ~~pursuant to this section shall not be considered an enterprise zone~~
11 ~~designated pursuant to this chapter.~~

12 ~~(c) The designation as a Manufacturing Enhancement Area~~
13 ~~pursuant to this section shall be binding for a period of 15 years,~~
14 ~~commencing January 1, 1998.~~

15 ~~SEC. 9. Section 7073.9 of the Government Code is repealed.~~

16 ~~7073.9. Upon approval by the department of an application by~~
17 ~~a city, county, or city and county, a manufacturing enhancement~~
18 ~~area in Imperial County is expanded to the extent proposed, but~~
19 ~~in no event by more than a 200-acre site that is located in Imperial~~
20 ~~County and used for purposes of those lines of business described~~
21 ~~in Codes 2011 to 3999, inclusive, of the Standard Industrial~~
22 ~~Classification (SIC) Manual published by the United States Office~~
23 ~~of Management and Budget, 1987 edition, to include definitive~~
24 ~~boundaries that are contiguous to the manufacturing enhancement~~
25 ~~area. The department shall approve an application for expansion~~
26 ~~of the manufacturing enhancement area if it determines that the~~
27 ~~proposed additional territory meets the criteria specified in Section~~
28 ~~7073.8 to the same extent as the existing territory of the~~
29 ~~manufacturing area and if all of the following conditions are met:~~

30 ~~(a) The governing body of each city in which the manufacturing~~
31 ~~enhancement is located approves an ordinance or resolution~~
32 ~~approving the proposed expansion of that area.~~

33 ~~(b) The additional territory proposed to be added to the~~
34 ~~manufacturing enhancement area is zoned for industrial or~~
35 ~~commercial use.~~

36 ~~(c) Basic infrastructure, including, but not limited to, gas, water,~~
37 ~~electrical service, and sewer systems is available to the additional~~
38 ~~territory proposed to be added to the manufacturing enhancement~~
39 ~~area.~~

1 *SEC. 10. Section 7076 of the Government Code is amended to*
2 *read:*

3 7076. (a) *The department shall serve as a liaison between the*
4 *state and enterprise zone residents, businesses, workers, nonprofit*
5 *organizations, and local governments. State agencies and*
6 *departments shall affirmatively support their statutory*
7 *responsibilities under this chapter and, consistent with their*
8 *statutory duties, respond to requests made by and on the behalf of*
9 *an enterprise zone.*

10 (b) (1) *The department shall provide technical assistance to the*
11 *enterprise zones designated pursuant to this chapter with respect*
12 *to all of the following activities:*

13 (A) *Furnish limited onsite assistance to the enterprise zones*
14 *when appropriate.*

15 (B) *Ensure that the locality has developed a method to make*
16 *residents, businesses, and neighborhood organizations aware of*
17 *the opportunities to participate in the program.*

18 (C) *Help the locality develop a marketing program for the*
19 *enterprise zone.*

20 (D) *Coordinate activities of other state agencies regarding the*
21 *enterprise zones.*

22 (E) *Monitor the progress of the program.*

23 (F) *Help businesses to participate in the program.*

24 (2) *Notwithstanding existing law, the provision of services in*
25 *subparagraphs (A) to (F), inclusive, shall be a high priority of the*
26 *department.*

27 (3) *The department may, at its discretion, undertake other*
28 *activities in providing management and technical assistance for*
29 *successful implementation of this chapter.*

30 ~~(b) The applicant shall be required to begin implementation of~~
31 ~~the enterprise zone plan contained in the final application within~~
32 ~~six months after notification of final designation or the enterprise~~
33 ~~zone shall lose its designation.~~

34 (c) *The department shall assess a fee of fifteen dollars (\$15) on*
35 *each enterprise zone and manufacturing enhancement area for each*
36 *application for issuance of a certificate pursuant to subdivision (j)*
37 *of Section 17053.47 of, subdivision (c) of Section 17053.74 of,*
38 *subdivision (c) of Section 23622.7 of, or subdivision (i) of Section*
39 *23622.8 of, the Revenue and Taxation Code. The department shall*
40 *collect the fee for deposit into the Enterprise Zone Fund, pursuant*

1 to Section 7072.3, for the costs of administering this chapter. The
2 enterprise zone or manufacturing enhancement area administrator
3 shall collect this fee at the time an application is submitted for
4 issuance of a certificate.

5 (d) (1) (A) The department shall establish a registration
6 process for businesses located in a zone that includes, but is not
7 limited to, the creation of a zone business registration form and
8 recommended outreach methods to help inform businesses of the
9 registration process.

10 (B) The department shall make the registration form available
11 on its Internet Web site. The information sought from a business
12 on the registration form shall include, but not be limited to, all of
13 the following:

14 (i) The name and location of the business.

15 (ii) The type of business based on the applicable first three digits
16 of the North American Industry Classification System.

17 (iii) The size of the business based on gross annual receipts for
18 the year prior to registration.

19 (iv) The total number of employees of the business and the total
20 number of employees of the business that work within the enterprise
21 zone, for the year prior to registration.

22 (2) Registration shall be a precondition for claiming an
23 enterprise zone-related tax incentive, including, but not limited
24 to, the hiring credit, the sales and use tax credit, and the net
25 interest deduction; however, a business shall not be required to
26 register until six months following the department's establishment
27 of the registration process. Businesses shall retain a copy of the
28 registration for use in preparation of their tax return.

29 (3) The registration information shall be updated at least once
30 every five years.

31 (e) Certificates for hiring credits shall be processed and
32 approved or denied based upon the regulations and administrative
33 memoranda in effect as of the date of the application.
34 Clarifications, interpretations, and other items contained within
35 a memorandum shall be binding upon the department, businesses,
36 enterprise zones, and all other applicable entities, as consistent
37 with state and federal law, unless the memorandum is modified or
38 repealed in writing.

39 (f) (1) (A) The department shall maintain, and post on its
40 Internet Web site, a catalog of all administrative memoranda in

1 *effect that implement this chapter, including the subject matter of*
2 *the memoranda and the effective dates of their publication,*
3 *modification, or repeal, along with the text of the memoranda.*

4 *(B) The department shall post on its Internet Web site the*
5 *publication, modification, or repeal of any of those administrative*
6 *memoranda, within 10 business days of that publication,*
7 *modification, or repeal.*

8 *(2) The department shall post on its Internet Web site enterprise*
9 *zone and targeted employment area boundary approvals,*
10 *modifications, and repeals within 10 business days of the approval,*
11 *modification, or repeal becoming final.*

12 *SEC. 11. Section 7076.1 of the Government Code is amended*
13 *to read:*

14 7076.1. (a) The department may audit the program of any
15 jurisdiction in any designated G-TEDA at any time during the
16 duration of the designation, as appropriate. However, the
17 department shall audit each G-TEDA at least once every five years
18 from the date of designation or the operative date of this section,
19 whichever is the latest. The matters to be examined in the course
20 of an audit shall include an examination of the progress made by
21 the G-TEDA toward meeting the goals, objectives, and
22 commitments set forth in its original application and the
23 department's memorandum of understanding with the G-TEDA.

24 (b) The department shall, for each audit, determine a result of
25 superior, pass, or fail in accordance with subdivision (c). The
26 results of each audit shall be based upon the success of the
27 G-TEDA in making substantial and sustained efforts since the later
28 of its designation or last audit to meet the standards, criteria, and
29 conditions contained in the application and the memorandum of
30 understanding (MOU) between the department and the G-TEDA,
31 as may be amended pursuant to the agreement of the G-TEDA and
32 the department. In each audit, the department shall focus upon the
33 G-TEDA's use of the marketing plan, local incentives, financing
34 programs, job development, and program management as described
35 in the application and the MOU. The department shall also evaluate
36 the vouchering plan, staffing levels, budget, and elements unique
37 to each application.

38 (c) For purposes of subdivision (b), an audit determination of
39 superior, pass, or fail shall be made in accordance with the
40 following:

1 (1) A G-TEDA will be determined to be superior if each
2 jurisdiction comprising the G-TEDA does all of the following:

3 (A) Meets 90 to 100 percent of its goals, objectives, and
4 commitments as defined in its application, most recent audit,
5 biennial report, and memorandum of understanding with the
6 department, and as determined by the department in consultation
7 with the G-TEDA. An equivalent or similar commitment may be
8 substituted for an existing commitment of a G-TEDA if it is
9 determined by the department that an original commitment was
10 not realistically practical or is no longer relevant.

11 (B) Demonstrates that it has reviewed and updated its goals,
12 objectives, and commitments as defined in its original application,
13 most recent audit, biennial report, and memorandum of
14 understanding with the department.

15 (C) Identifies to the department's satisfaction that it has
16 incorporated economic development commitments in addition to
17 those commitments previously made in its application.

18 (2) (A) A G-TEDA will be determined to be passing if each
19 jurisdiction comprising the area meets ~~or exceeds~~ 75 to 90 percent
20 of its goals, objectives, or commitments as defined in its original
21 application, most recent audit, biennial report, and memorandum
22 of understanding with the department, and as determined by the
23 department in consultation with the G-TEDA. An equivalent or
24 similar commitment may be substituted for an existing commitment
25 of a G-TEDA if it is determined by the department that an original
26 commitment was not realistically practical or is no longer relevant.

27 (B) Any G-TEDA that is determined to be passing may appeal
28 in writing to the department for a determination of superior. Only
29 one appeal may be filed pursuant to this subparagraph with respect
30 to a determination by the department, and may be filed no later
31 than 30 days after the G-TEDA's receipt of the determination to
32 which the appeal pertains. The department shall respond in writing
33 to any appeal that is properly filed pursuant to this subparagraph
34 within 60 days of the date of that filing.

35 (3) (A) A G-TEDA will be determined to be failing if any
36 jurisdiction comprising the G-TEDA fails to meet or exceed 75
37 percent of its goals, objectives, or commitments as defined in its
38 original application, most recent audit, biennial report, and
39 memorandum of understanding with the department, and as
40 determined by the department in consultation with the G-TEDA.

1 An equivalent or similar commitment may be substituted for an
2 existing commitment of a G-TEDA if it is determined by the
3 department that an original commitment was not realistically
4 practical or is no longer relevant.

5 (B) Any G-TEDA that is determined to be failing shall enter
6 into a written agreement with the department that specifies those
7 items that the G-TEDA is required to remedy or improve. Failure
8 of the G-TEDA and the department to negotiate and enter into a
9 written agreement as so described within 60 days of the last day
10 upon which the department is required to deliver a response letter
11 pursuant to subparagraph (C) *of paragraph (4)* shall result in the
12 dedesignation of the G-TEDA on January 1 immediately following
13 the department's written notice of dedesignation to the G-TEDA.

14 A

15 (C) A written agreement entered into pursuant to this
16 ~~subparagraph~~ *paragraph* shall be for a six-month period. If, upon
17 the expiration of the agreement, the department determines that
18 the G-TEDA has not met or implemented at least 75 percent of
19 the conditions set forth in the agreement, the department shall,
20 after immediately providing written notification to each jurisdiction
21 comprising the G-TEDA that the G-TEDA is to be dedesignated;
22 ~~dedesignate~~. *Dedesignation of* the G-TEDA is effective on the first
23 day of the month next following the date upon which the agreement
24 expired. If, upon expiration of the agreement, the department
25 determines that the G-TEDA has met or implemented at least 75
26 percent of the conditions set forth in the agreement, the department
27 shall do either of the following:

28 (i) Allow the G-TEDA an additional year, or a longer period in
29 the department's discretion, to meet or implement those conditions
30 in their entirety.

31 (ii) Pursuant to written notice provided immediately to each
32 jurisdiction that comprises the G-TEDA that the G-TEDA is to be
33 dedesignated, dedesignate the G-TEDA effective on January 1
34 immediately following the date of the department's written
35 notification of dedesignation to those jurisdictions.

36 (D) Any business, located within any jurisdiction that comprises
37 a G-TEDA that has been dedesignated, that has elected to avail
38 itself of any state tax incentive specifically applicable to a G-TEDA
39 for any taxable or income year beginning prior to the dedesignation
40 of the G-TEDA may, to the extent the business is otherwise still

1 eligible for those incentives, continue to avail itself of those
2 incentives for a period equal to the remaining life of the G-TEDA.
3 However, any business, located within any jurisdiction that
4 comprises a G-TEDA that has been dedesignated, that has not
5 availed itself of any state tax incentive in the manner described in
6 the preceding sentence may not, after dedesignation of the
7 G-TEDA, avail itself of any state incentive specifically applicable
8 to a G-TEDA.

9 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, a
10 G-TEDA shall be determined to be failing if any jurisdiction
11 comprising the G-TEDA, in the determination of the director,
12 provides funding support in at least three of the previous five years
13 at a level that is less than 75 percent of the amount committed to
14 in the G-TEDA's memorandum of understanding with the
15 department.

16 (B) In the event that a G-TEDA is determined to be failing
17 pursuant to this paragraph, subparagraph (B) of paragraph (3) shall
18 apply.

19 (C) Any G-TEDA that is determined to be failing pursuant to
20 this paragraph may appeal in writing to the department. The appeal
21 shall be filed within 30 days of the G-TEDA's receipt of the
22 determination to which the appeal pertains. The department shall
23 respond in writing to any appeal that is properly filed within 60
24 days of the date of filing.

25 (d) *In undertaking its audit responsibilities pursuant to this*
26 *section, the department shall seek appropriate opportunities to*
27 *provide technical assistance and training to help G-TEDAs address*
28 *inadequacies identified through the audit of the program.*
29 *Assistance may include, but is not limited to, workshops, mentoring*
30 *programs, and referrals to other federal, state, and local public*
31 *and private entities.*

32 ~~(d)~~

33 (e) (1) For purposes of this section, "dedesignation" means that
34 a G-TEDA is no longer a G-TEDA for purposes of either Section
35 7073 or 7085.

36 (2) Upon notification by the department of the dedesignation
37 of a G-TEDA and the end of the appeal period with respect to that
38 dedesignation, the department shall initiate an application process
39 for a new designation as provided in Section 7073, 7073.8, 7085,
40 7097, or 7114.

1 (f) In addition to any other oversight activities that the
2 department determines are appropriate and necessary, the
3 department shall review the progress reports submitted by a
4 G-TEDA pursuant to Section 7085.1 and determine whether an
5 audit is warranted.

6 SEC. 12. Section 7081 of the Government Code is amended to
7 read:

8 7081. (a) Notwithstanding any other provision of state law,
9 and to the extent permitted by federal law, the Employment
10 Development Department and the State Department of Education
11 shall give high priority to the training of unemployed individuals
12 who reside in a targeted employment area or a designated enterprise
13 zone. ~~The~~

14 (b) When developing workforce development and training plans
15 and strategies, including, but not limited to, federal Workforce
16 Development Act funds, a state entity shall consider how the
17 G-TEDA programs could be integrated so as to maximize the
18 benefits to workers and businesses.

19 (c) The Employment Development Department shall, consistent
20 with its duties to assist unemployed workers who are registered
21 in the one-stop career centers, provide letters to unemployed
22 prospective employees that could be used to certify their eligibility
23 as a person participating in a program developed pursuant to the
24 federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2081 et
25 seq.).

26 (d) The department may assist localities in designating local
27 business, labor, and education consortia to broker activities between
28 the employment community and educational and training
29 institutions. Any available discretionary funds may be used to
30 assist the creation of those consortia.

31 (e) Local education entities that administer student work permits
32 shall consider how enterprise zone program hiring credits could
33 be used to benefit lower income students who apply for work
34 permits at their offices.

35 SEC. 13. Section 7085 of the Government Code is amended to
36 read:

37 7085. (a) Notwithstanding Section 7550.5, the department
38 shall submit a report to the Legislature every ~~five~~ six years
39 ~~beginning January 1, 1998~~, that evaluates the effect of the program
40 on retaining and increasing employment among targeted

1 *populations as described in subdivision (c), public and private*
2 *investment, and incomes, and on state and local tax revenues in*
3 *designated enterprise zones. The report shall include a department*
4 *review of the progress and effectiveness of each enterprise zone,*
5 *including, but not limited to, any efforts made regarding training*
6 *and placement of unemployed individuals pursuant to Section*
7 *7081. The Employment Development Department, the State*
8 *Department of Social Services, and the State Department of*
9 *Education shall, for the purposes of the report, provide the*
10 *department with existing data on unemployed individuals receiving*
11 *training. The Franchise Tax Board shall make available to the*
12 *department and the Legislature aggregate information on the dollar*
13 *value of enterprise zone tax credits that are claimed each year by*
14 *businesses pursuant to Section 7085.5. The Department of General*
15 *Services shall provide information on the use and outcomes that*
16 *the department tracks relating to the enterprise zone procurement*
17 *preference.*

18 (b) An enterprise zone governing body shall provide information
19 at the request of the department as necessary for the department
20 to prepare the report required pursuant to subdivision (a).

21 (c) *Targeted populations included within the report required*
22 *pursuant to subdivision (a) shall include, but not be limited to, the*
23 *disabled, disabled veterans, individuals formerly on forms of*
24 *federal and state assistance, individuals within the targeted*
25 *employment areas, and ex-offenders.*

26 (d) *The base year for the report required pursuant to subdivision*
27 *(a) shall be the calendar year commencing January 1, 2012.*

28 SEC. 14. *Section 7085.1 of the Government Code is amended*
29 *to read:*

30 7085.1. (a) The governing board of the G-TEDA shall report
31 to the department by October 1, 2008, and by that date every other
32 year thereafter, on the activities of the G-TEDA in the previous
33 two fiscal years and its plans for the current and following fiscal
34 year. The biennial report shall include ~~at least both~~ *all* of the
35 following:

36 (1) The progress the G-TEDA has made during the period
37 covered by the report relative to its goals, objectives, and
38 commitments set forth in its original application and the
39 department's memorandum of understanding with the G-TEDA.

(2) Identification of the previous two years' funding, including in-kind funding. The previous two years' funding levels shall be compared to the funding levels identified in its original application and the department's memorandum of understanding with the G-TEDA, and the amount identified in the previous year's biennial report. An explanation of any meaningful discrepancies in these amounts shall be provided.

(3) Identification of the financial value of local incentives provided during the report period, and of federal and other state resources accessed to serve the residents, workers, and businesses in the G-TEDA.

(4) The following information based on the certification applications approved in the zones relating to the hiring credit:

(A) The number of jobs for which certifications have been issued.

(B) The number of new employees for which certifications have been issued.

(C) The number of employees replacing previous employees for which certification, were issued.

(D) The number of employees by qualified employee category pursuant to Sections 17053.74 and 23622.7 of the Revenue and Taxation Code.

(E) The total range and the average, median, and mean employee wage rates that were certified.

(F) The number of businesses obtaining certification for qualified employees.

(G) The industry classification, based on the North American Industry Classification System, of businesses obtaining certification of qualified employees.

(H) The distribution of employee certifications among industry sectors, based on the North American Industry Classification System.

(I) The distribution of employee certifications by the annual receipts and asset value of the business obtaining qualified employee certifications.

(J) The number of state-certified small businesses that submitted qualified employee certification applications.

(K) The number of state-certified disabled veteran owned business enterprises that submitted applications.

~~(b) A copy of the biennial report developed pursuant to subdivision (a) shall also be submitted to the legislative bodies of~~

~~the local jurisdictions comprising the G-TEDA. The progress of the G-TEDA in meeting the goals, objectives, and commitments set forth in the original application and the memorandum of understanding with the department shall be reviewed at least biennially by these the legislative bodies, either as part of the approval of the G-TEDA's annual work plan or separately, at the discretion of the legislative body of the local jurisdictions comprising the G-TEDA.~~

(c) (1) G-TEDAs designated prior to January 1, 2007, shall have until April 15, 2008, to update their benchmarks, goals, objectives, and funding levels for administering the G-TEDA program, in order to make them measurable and conducive to the successful completion of the economic development strategy. The local legislative body and the department shall approve the updated goals and objectives. The updated goals and objectives shall be included as an update to the existing memorandum of understanding between the G-TEDA and the department.

(2) G-TEDAs that fail to obtain approved updated goals and objectives by April 15, 2008, shall be dedesignated effective July 1, 2008. The Director of Housing and Community Development shall provide notice of prospective dedesignation to the local government no later than May 1, 2008. The director may authorize up to two 60-calendar-day extensions, if the local government and G-TEDA are acting in good faith and the additional time would allow them to meet the requirements of this subdivision. Businesses located within a G-TEDA that have been dedesignated shall continue to have access to tax incentives previously authorized within the G-TEDA pursuant to Section 7082.2.

(3) G-TEDAs designated prior to January 1, 2007, are not required to implement the biennial reporting requirements of subdivisions (a) and (b) until October 1, 2009.

(4) G-TEDAs that expire prior to January 1, 2010, are not required to meet the conditions of this subdivision.

(d) The department shall biennially make available to the Legislature information related to the progress that each G-TEDA is making toward implementing its goals, objectives, and commitments set forth in the original application, the department's memorandum of understanding with the G-TEDA, and the biennial report.

1 (e) *G-TEDAs that fail to submit a timely biennial report to the*
2 *department shall be audited pursuant to Section 7076.1.*

3 *SEC. 15. Section 7085.5 of the Government Code is amended*
4 *to read:*

5 7085.5. (a) The Franchise Tax Board shall annually make
6 available to the department and the Legislature information, by
7 enterprise zone and by city or county, on the dollar value of the
8 enterprise zone tax credits *and other tax related incentives* that are
9 claimed each year by businesses and shall design and distribute
10 forms and instructions that will allow the following information
11 to be accessible:

12 (a)

13 (1) The *total* number of jobs for which the hiring credits are
14 claimed.

15 ~~(b) The number of new employees for which hiring credits are~~
16 ~~claimed.~~

17 (c)

18 (2) The number of businesses claiming each individual tax
19 credit.

20 ~~(d)~~

21 (3) The nature of the business claiming each individual tax
22 credit.

23 (e)

24 (4) The distribution of zone tax incentives among industry
25 groups.

26 ~~(f)~~

27 (5) The distribution of zone tax incentives by the annual receipts
28 and asset value of the business claiming each individual tax credit.

29 (6) *The total amount of capital investments made, as well as*
30 *the value of the total amount of credit claimed by businesses under*
31 *the sales and use tax credit.*

32 ~~(g)~~

33 (7) Any other information that the Franchise Tax Board and the
34 department deem to be important in determining the cost to, and
35 benefit derived by, the taxpayers of the state.

36 (b) *In developing this information, the Franchise Tax Board*
37 *shall review returns from personal and corporate tax returns. The*
38 *totals for each tax incentive shall, at a minimum, be reported*
39 *separately.*

1 *SEC. 16. Chapter 12.93 (commencing with Section 7097) of*
2 *Division 7 of Title 1 of the Government Code is repealed.*

3 *SEC. 17. Section 7114.2 of the Government Code is amended*
4 *to read:*

5 7114.2. (a) The department shall assess each LAMBRA a fee
6 of fifteen dollars (\$15) for each application for issuance of a
7 certificate pursuant to subdivision (c) of Section 17053.46 of the
8 Revenue and Taxation Code and subdivision (c) of Section 23646
9 of the Revenue and Taxation Code. The department shall collect
10 the fee for deposit into the Enterprise Zone Fund, pursuant to
11 Section 7072.3, for the costs of administering this chapter. The
12 LAMBRA administrator shall collect this fee at the time an
13 application is submitted for issuance of a certificate.

14 (b) The department shall adopt regulations governing the
15 imposition and collection of fees pursuant to this section and the
16 issuance of certificates pursuant to subdivision (c) of Section
17 17053.46 of the Revenue and Taxation Code and subdivision (c)
18 of Section 23646 of the Revenue and Taxation Code. The
19 regulations shall provide for a notice or invoice to fee payers as
20 to the amount and purpose of the fee. The adoption of the
21 regulations shall be deemed to be an emergency and necessary for
22 the immediate preservation of the public peace, health and safety,
23 or general welfare. Notwithstanding subdivision (e) of Section
24 11346.1, the regulations shall remain in effect for no more than
25 360 days unless the agency complies with all the provisions of
26 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
27 3 of Title 2 as required by subdivision (e) of Section 11346.1.

28 (c) (1) (A) *The department shall establish a registration process*
29 *for businesses located in a LAMBRA that includes, but is not*
30 *limited to, the creation of a LAMBRA business registration form*
31 *and recommended outreach methods to help inform businesses of*
32 *the registration process.*

33 (B) *The department shall make the registration form available*
34 *on its Internet Web site. The information sought from a business*
35 *on the registration form shall include, but not be limited to, all of*
36 *the following:*

37 (i) *The name and location of the business.*

38 (ii) *The type of business based on the applicable first three digits*
39 *of the North American Industry Classification System.*

1 (iii) The size of the business based on gross annual receipts for
2 the year prior to registration.

3 (iv) The total number of employees of the business and the total
4 number of employees of the business that work within the LAMBRA,
5 for the year prior to registration.

6 (2) Registration shall be a precondition for claiming a
7 LAMBRA-related tax incentive, including, but not limited to, the
8 hiring credit, the sales and use tax credit, and the net interest
9 deduction; however, a business shall not be required to register
10 until six months following the department's establishment of the
11 registration process. Businesses shall retain a copy of the
12 registration for use in preparation of their tax return.

13 (3) The registration information shall be updated at least once
14 every five years.

15 SEC. 18. Section 17050 is added to the Revenue and Taxation
16 Code, to read:

17 17050. (a) Notwithstanding any provision of this part or Part
18 10.2 (commencing with Section 18401) to the contrary, for each
19 taxable year beginning on or after January 1, 2011, and before
20 January 1, 2013, the total of all credits otherwise allowable under
21 Sections 17053.45, 17053.46, 17053.70, 17053.73, and 17053.74,
22 including the carryover of these credits, for the taxable year shall
23 not reduce the "net tax," as defined in Section 17039, below the
24 applicable amount.

25 (b) For purposes of this section, the "applicable amount" shall
26 be equal to 50 percent of the "net tax," as defined in Section
27 17039, before application of any credits.

28 (c) The amount of any credit otherwise allowable for the taxable
29 year under Sections 17053.45, 17053.46, 17053.70, 17053.73, and
30 17053.74 that is not allowed due to the application of this section
31 shall remain a credit carryover amount as otherwise allowed by
32 this part.

33 (d) The carryover period for any credit that is not allowed due
34 to the application of this section shall be increased by the number
35 of taxable years the credit, or any portion thereof, was not allowed.

36 (e) This section shall not apply to a taxpayer with gross income
37 of less than one million dollars (\$1,000,000) for the taxable year.

38 (f) This section shall remain in effect only until December 1,
39 2013, and as of that date is repealed.

1 *SEC. 19. Section 17053.34 of the Revenue and Taxation Code*
2 *is amended to read:*

3 17053.34. (a) For each taxable year beginning on or after
4 January 1, 1998, there shall be allowed a credit against the “net
5 tax” (as defined in Section 17039) to a qualified taxpayer who
6 employs a qualified employee in a targeted tax area during the
7 taxable year. The credit shall be equal to the sum of each of the
8 following:

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

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

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

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

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

19 (b) For purposes of this section:

20 (1) “Qualified wages” means:

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

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

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

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

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

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

(4) (A) “Qualified employee” means an individual who *is hired by a qualified taxpayer before January 1, 2011, and who* meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

~~(III)~~

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

~~(IV)~~

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

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

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

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

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

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

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

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

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

32 ~~(V)~~

33 ~~(III) Immediately preceding the qualified employee's~~
34 ~~commencement of employment with the qualified taxpayer, was~~
35 ~~a disabled individual who is eligible for or enrolled in, or has~~
36 ~~completed a state rehabilitation plan or is.~~

37 ~~(IV) Immediately preceding the qualified employee's~~
38 ~~commencement of employment with the taxpayer, was a~~
39 ~~service-connected disabled veteran, veteran of the Vietnam era,~~
40 ~~or veteran who is recently separated from military service.~~

~~(VI)~~

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

~~(VII)~~

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

~~(VIII)~~

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

~~(IX)~~

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

~~(X)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 amount equal to the credit allowed under subdivision (a) for that
2 taxable year and all prior taxable years attributable to qualified
3 wages paid or incurred with respect to that qualified employee.

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

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

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

14 (iii) A termination of employment of a qualified employee, if
15 it is determined that the termination 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 employee.

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

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

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

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

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

37 (iii) A failure to continue the seasonal employment of a qualified
38 employee, if it is determined that the failure to continue the
39 seasonal employment was due to the misconduct (as defined in

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

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

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

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

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

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

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

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

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

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

36 (j) (1) The amount of the credit otherwise allowed under this
37 section and Section 17053.33, including any credit carryover from
38 prior years, that may reduce the “net tax” for the taxable year shall
39 not exceed the amount of tax that would be imposed on the
40 qualified taxpayer’s business income attributable to the targeted

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

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

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

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

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

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

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

38 (k) *This section shall remain in effect only until January 1, 2017,*
39 *and as of that date is repealed.*

1 *SEC. 20. Section 17053.45 of the Revenue and Taxation Code*
2 *is amended to read:*

3 17053.45. (a) For each taxable year beginning on or after
4 January 1, 1995, there shall be allowed as a credit against the “net
5 tax” (as defined by Section 17039) an amount equal to the sales
6 or use tax paid or incurred by the taxpayer in connection with the
7 purchase of qualified property to the extent that the qualified
8 property does not exceed a value of one million dollars
9 (\$1,000,000).

10 (b) For purposes of this section:

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

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

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

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

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

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

39 (C) In the case of a taxpayer who first commences doing
40 business in the LAMBRA during the taxable year, for purposes of

1 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
2 “2,000” and “12” shall be multiplied by a fraction, the numerator
3 of which is the number of months of the taxable year that the
4 taxpayer was doing business in the LAMBRA and the denominator
5 of which is 12.

6 (3) “Qualified property” means property that is each of the
7 following:

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

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

12 (C) Any of the following:

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

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

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

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

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

27 (d) In the case where the credit otherwise allowed under this
28 section exceeds the “net tax” for the taxable year, that portion of
29 the credit which exceeds the “net tax” may be carried over and
30 added to the credit, if any, in *the following year, and the succeeding*
31 *14 years if necessary*, until the credit is exhausted. The credit shall
32 be applied first to the earliest taxable years possible.

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

38 (f) (1) The amount of credit otherwise allowed under this
39 section and Section 17053.46, including any credit carryover from
40 prior years, that may reduce the “net tax” for the taxable year shall

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

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

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

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

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

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

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

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

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

(i) *A taxpayer shall be required to register a business pursuant to the Local Agency Military Base Recovery Area Act (Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more LAMBRAs, as a condition of claiming a credit under this section.*

(i)

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

(k) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.*

SEC. 21. Section 17053.46 of the Revenue and Taxation Code is amended to read:

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

(1) ~~Fifty~~ *Thirty* 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~~ *Fifty* 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 (1) “Qualified wages” means:

2 (A) ~~That~~ *(i) Except as modified by clause (ii), that portion of*
3 *wages paid or incurred by the employer during the taxable year to*
4 *qualified disadvantaged individuals or qualified displaced*
5 *employees that does not exceed 150 180 percent of the minimum*
6 *wage.*

7 *(ii) For qualified employees who are employed by the taxpayer*
8 *in manufacturing activities described in Codes 311 to 339,*
9 *inclusive, of the North American Industry Classification System*
10 *published by the United States Office of Management and Budget,*
11 *2007 edition, “qualified wages” means that portion of hourly*
12 *wages that does not exceed 202 percent of the minimum wage.*

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

17 (C) Wages received during the ~~60-month~~ 36-month period
18 beginning with the first day the individual commences employment
19 with the taxpayer. Reemployment in connection with any increase,
20 including a regularly occurring seasonal increase, in the trade or
21 business operations of the qualified taxpayer does not constitute
22 commencement of employment for purposes of this section.

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

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

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

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

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

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

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

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

13 ~~(i) An individual who has been determined eligible for services~~
14 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
15 ~~1501 et seq.).~~

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

20 (iii)

21 (i) An economically disadvantaged individual age 16 years or
22 older.

23 (iv)

24 (ii) A dislocated worker who meets any of the following
25 conditions:

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

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

35 (III) Is long-term unemployed and has limited opportunities for
36 employment or reemployment in the same or a similar occupation
37 in the area in which the individual resides, including an individual
38 55 years of age or older who may have substantial barriers to
39 employment by reason of age.

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

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

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

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

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

17 ~~(v)~~

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

22 ~~(vi)~~

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

26 ~~(vii)~~

27 (v) A recipient of:

28 (I) Federal Supplemental Security Income benefits.

29 (II) Aid to Families with Dependent Children.

30 (III) Food stamps.

31 (IV) State and local general assistance.

32 ~~(viii)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) ~~Obtain~~ *Apply for certification, within 36 months of an*
10 *employee being hired, from the Employment Development*
11 *Department, as permitted by federal law, the local county or city*
12 ~~Job Training Partnership Act administrative entity, the local county~~
13 ~~GAIN—office federal Workforce Investment Act of 1998~~
14 *administrative entity, the local county CalWORKs program office*
15 *or social services agency, or the local government administering*
16 *the LAMBRA, a certification that provides that a qualified*
17 *disadvantaged individual or qualified displaced employee meets*
18 *the eligibility requirements specified in subparagraph (C) of*
19 *paragraph (4) of subdivision (b) or subparagraph (A) of paragraph*
20 *(6) of subdivision (b). The Employment Development Department*
21 *may provide preliminary screening and referral to a certifying*
22 *agency. The Department of Housing and Community Development*
23 *shall develop regulations governing the issuance of certificates*
24 *pursuant to Section 7114.2 of the Government Code and shall*
25 *develop forms for this purpose.*

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

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

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

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

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

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

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

6 *(B) If a taxpayer relocated to a LAMBRA from within the state,*
7 *the taxpayer shall be allowed a credit only for that number of*
8 *employees that exceeds the number of employees at the previous*
9 *location. The number of employees at the previous location and*
10 *the type of jobs undertaken shall be established by the Employment*
11 *Development Department. Exceptions to this subparagraph shall*
12 *be limited to the following:*

13 *(i) Employees who undertake core work activities or activities*
14 *that are the primary job duties of the employee that are*
15 *significantly different from those activities at the previous location,*
16 *as determined by the Employment Development Department.*

17 *(ii) Employees of taxpayers that receive a bona fide offer to*
18 *relocate to another state.*

19 *(iii) Employees who relocate as a result of a natural disaster,*
20 *civic unrest, or eminent domain proceeding.*

21 (e) (1) (A) If the employment, other than seasonal employment,
22 of any employee, with respect to whom qualified wages are taken
23 into account under subdivision (a) is terminated by the taxpayer
24 at any time during the first ~~270~~ 300 days of that employment
25 (whether or not consecutive) or before the close of the ~~270th~~ 300th
26 calendar day after the day in which that employee completes 90
27 days of employment with the taxpayer, the tax imposed by this
28 part for the taxable year in which that employment is terminated
29 shall be increased by an amount (determined under those
30 regulations) equal to the credit allowed under subdivision (a) for
31 that taxable year and all prior taxable years attributable to qualified
32 wages paid or incurred with respect to that employee.

33 (B) If the seasonal employment of any qualified disadvantaged
34 individual, with respect to whom qualified wages are taken into
35 account under subdivision (a) is not continued by the qualified
36 taxpayer for a period of ~~270~~ 300 days of employment during the
37 ~~60-month~~ 36-month period beginning with the day the qualified
38 disadvantaged individual commences seasonal employment with
39 the qualified taxpayer, the tax imposed by this part, for the taxable
40 year that includes the ~~60th~~ 36th month following the month in

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

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

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

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

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

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

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

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

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

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

39 (iii) A failure to continue the seasonal employment of a qualified
40 disadvantaged individual, if it is determined that the failure to

1 continue the seasonal employment was due to the misconduct (as
2 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
3 the California Code of Regulations) of that qualified disadvantaged
4 individual.

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

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

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

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

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

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

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

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

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

38 In addition, any deduction otherwise allowed under this part for
39 the wages or salaries paid or incurred by the taxpayer upon which

the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

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

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

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

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

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

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

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

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

9 (k) *A credit shall not be allowed under this section to a taxpayer*
10 *that has been notified by the Director of Industrial Relations of a*
11 *final determination, based on the taxpayer’s history of significant*
12 *employment violations, that the taxpayer is considered by the*
13 *Department of Industrial Relations as a serious, repeated, and*
14 *willful violator of state employment laws, including, but not limited*
15 *to, demonstrating a failure to successfully abate these violations.*

16 (l) *A taxpayer shall be required to register a business pursuant*
17 *to the Local Agency Military Base Recovery Area Act (Chapter*
18 *12.97 (commencing with Section 7105) of Division 7 of Title 1 of*
19 *the Government Code), and shall state under penalty of perjury*
20 *that the taxpayer is a registered business in one or more LAMBRAs,*
21 *as a condition of claiming a credit under this section.*

22 (m) *The changes made to this section by the act adding this*
23 *subdivision shall apply only to qualified disadvantaged individuals*
24 *hired by a qualified taxpayer on or after January 1, 2011.*

25 SEC. 22. *Section 17053.47 of the Revenue and Taxation Code*
26 *is amended to read:*

27 17053.47. (a) For each taxable year beginning on or after
28 January 1, 1998, there shall be allowed a credit against the “net
29 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
30 a qualified disadvantaged individual during the taxable year for
31 employment in the manufacturing enhancement area. The credit
32 shall be equal to the sum of each of the following:

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) "Qualified wages" means:

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

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

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

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

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

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

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

1 (5) “Qualified disadvantaged individual” means an individual
2 who *was hired by a qualified taxpayer before January 1, 2011,*
3 *and who* satisfies all of the following requirements:

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

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

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

14 (C) ~~Who is any of the following,~~ immediately preceding the
15 individual’s commencement of employment with the qualified
16 taxpayer~~;~~, *was certified as eligible by the Employment Development*
17 *Department under the federal Targeted Jobs Tax Credit Program,*
18 *or its successor, whether or not this program is in effect.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) Income shall be apportioned to a manufacturing enhancement
39 area by multiplying the total California business income of the
40 taxpayer by a fraction, the numerator of which is the property

factor plus the payroll factor, and the denominator of which is two.
For purposes of this paragraph:

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

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

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

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

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

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

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

1 (k) *This section shall remain in effect only until January 1, 2017,*
2 *and as of that date is repealed.*

3 SEC. 23. *Section 17053.70 of the Revenue and Taxation Code*
4 *is amended to read:*

5 17053.70. (a) There shall be allowed as a credit against the
6 “net tax” (as defined in Section 17039) for the taxable year an
7 amount equal to the sales or use tax paid or incurred during the
8 taxable year by the taxpayer in connection with the taxpayer’s
9 purchase of qualified property.

10 (b) For purposes of this section:

11 (1) “Taxpayer” means a person or entity engaged in a trade or
12 business within an enterprise zone.

13 (2) “Qualified property” means:

14 (A) Any of the following:

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

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

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

21 (I) Air pollution control mechanisms.

22 (II) Water pollution control mechanisms.

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

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

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

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

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

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

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

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

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

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

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

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

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 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 enterprise zone during
9 the taxable year for compensation, and the denominator of which
10 is the total compensation paid by the taxpayer in this state during
11 the 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, as if it were an amount exceeding the "net tax" for the
15 taxable year, as provided in subdivision (d).

16 (g) *A taxpayer shall be required to register a business pursuant*
17 *to the Enterprise Zone Act (Chapter 12.8 (commencing with Section*
18 *7070) of Division 7 of Title 1 of the Government Code), and shall*
19 *state under penalty of perjury that the taxpayer is a registered*
20 *business in one or more enterprise zones, as a condition of claiming*
21 *a credit under this section.*

22 ~~(g)~~

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

26 (i) *The amendments made to this section by the act adding this*
27 *subdivision shall apply only to taxable years beginning on or after*
28 *January 1, 2011.*

29 SEC. 24. Section 17053.73 is added to the Revenue and
30 Taxation Code, to read:

31 17053.73. (a) *There shall be allowed a credit against the "net*
32 *tax" (as defined in Section 17039) to a taxpayer that employs a*
33 *qualified employee in an enterprise zone during the taxable year.*
34 *The credit shall be equal to the sum of each of the following:*

35 (1) *Thirty percent of qualified wages in the first year of*
36 *employment.*

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

39 (3) *Fifty percent of qualified wages in the third year of*
40 *employment.*

1 (b) For purposes of this section:

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

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

9 (3) (A) “Qualified employee” means an individual who was
10 hired by a taxpayer on or after January 1, 2011, and who meets
11 all of the following requirements:

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

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

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

20 (iv) Is any of the following:

21 (I) Immediately preceding the qualified employee’s
22 commencement of employment with the taxpayer, was an
23 economically disadvantaged individual 14 years of age or older.

24 (II) Immediately preceding the qualified employee’s
25 commencement of employment with the taxpayer, was a dislocated
26 worker who meets any of the following:

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

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

36 (ic) Is long-term unemployed and has limited opportunities for
37 employment or reemployment in the same or a similar occupation
38 in the area in which the individual resides, including an individual
39 55 years of age or older who may have substantial barriers to
40 employment by reason of age.

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

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

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

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

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

18 (III) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a disabled
20 individual who is eligible for or enrolled in, or has completed a
21 state rehabilitation plan.

22 (IV) Immediately preceding the qualified employee's
23 commencement of employment with the taxpayer, was a
24 service-connected disabled veteran, veteran of the Vietnam era,
25 or veteran who is recently separated from military service.

26 (V) 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 (VI) 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 (ia) Federal Supplemental Security Income benefits.

35 (ib) Temporary Assistance for Needy Families.

36 (ic) Medi-Cal or Healthy Families.

37 (id) Food stamps.

38 (ie) State and local general assistance.

(if) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(ig) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(ih) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

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

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code, and the employee is receiving a wage that does not exceed the median income for a family of four within the census block groups of the enterprise zone, as defined by the United States Census Bureau.

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

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

(4) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 180 percent of the minimum wage.

(ii) Qualified employees who are employed by a taxpayer in manufacturing activities described in Codes 311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, 2007 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

1 (B) Wages received during the 36-month period beginning with
2 the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operations of the taxpayer does not constitute commencement of
6 employment for purposes of this section.

7 (C) Qualified wages shall not include any wages paid or
8 incurred by the taxpayer on or after the zone expiration date.
9 However, wages paid or incurred with respect to qualified
10 employees who are employed by the taxpayer within the enterprise
11 zone within the 36-month period prior to the zone expiration date
12 shall continue to qualify for the credit under this section after the
13 zone expiration date, in accordance with all provisions of this
14 section applied as if the enterprise zone designation were still in
15 existence and binding.

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

19 (6) "Taxpayer" means a person or entity engaged in a trade or
20 business within an enterprise zone designated pursuant to Chapter
21 12.8 (commencing with Section 7070) of the Government Code.

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

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

25 (1) Apply for certification, within 36 months of an employee
26 being hired, from the Employment Development Department, as
27 permitted by federal law, the local county or city federal Workforce
28 Investment Act administrative entity, the local county CalWORKs
29 program office or social services agency, or the local government
30 administering the enterprise zone, a certification which provides
31 that a qualified employee meets the eligibility requirements
32 specified in clause (iv) of subparagraph (A) of paragraph (4) of
33 subdivision (b). The Employment Development Department may
34 provide preliminary screening and referral to businesses located
35 in an enterprise zone as of the department's implementation of the
36 intensive services activities funded through the federal Workforce
37 Investment Act. The Department of Housing and Community
38 Development shall develop regulations governing the issuance of
39 certificates by local governments pursuant to subdivision (a) of
40 Section 7086 of the Government Code.

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

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

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

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

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

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

23 (B) If a taxpayer relocated to an enterprise zone from within
24 the state, the taxpayer shall be allowed a credit only for that
25 number of employees that exceeds the number of employees at the
26 previous location. The number of employees at the previous
27 location and the type of jobs undertaken shall be established by
28 the Employment Development Department. Exceptions to this
29 subparagraph shall be limited to the following:

30 (i) Employees who undertake core work activities or activities
31 that are the primary job duties of the employee that are
32 significantly different from those activities at the previous location,
33 as determined by the Employment Development Department.

34 (ii) Employees of taxpayers that receive a bona fide offer to
35 relocate to another state.

36 (iii) Employees who relocate as a result of a natural disaster,
37 civic unrest, or eminent domain proceeding.

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

1 taxpayer at any time during the first 300 days of that employment
2 (whether or not consecutive) or before the close of the 300th
3 calendar day after the day in which that employee completes 90
4 days of employment with the taxpayer, the tax imposed by this part
5 for the taxable year in which that employment is terminated shall
6 be increased by an amount equal to the credit allowed under
7 subdivision (a) for that taxable year and all prior taxable years
8 attributable to qualified wages paid or incurred with respect to
9 that employee.

10 (B) If the seasonal employment of any qualified employee, with
11 respect to whom qualified wages are taken into account under
12 subdivision (a) is not continued by the taxpayer for a period of
13 300 days of employment during the 36-month period beginning
14 with the day the qualified employee commences seasonal
15 employment with the taxpayer, the tax imposed by this part, for
16 the taxable year that includes the 36th month following the month
17 in which the qualified employee commences seasonal employment
18 with the taxpayer, shall be increased by an amount equal to the
19 credit allowed under subdivision (a) for that taxable year and all
20 prior taxable years attributable to qualified wages paid or incurred
21 with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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
16 added to the credit, if any, in the following year, and the succeeding
17 14 years if necessary, until the credit is exhausted. The credit shall
18 be applied first to the earliest taxable years possible.

19 (i) (1) The amount of the credit otherwise allowed under this
20 section and Section 17053.70, including any credit carryover from
21 prior years, that may reduce the “net tax” for the taxable year
22 shall 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 income
29 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 enterprise zone in accordance with Article 2 (commencing with
33 Section 25120) of Chapter 17 of Part 11, modified for purposes
34 of this section in 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 taxable year, and the denominator of which is the average
5 value of all the taxpayer's real and tangible personal property
6 owned or 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 enterprise zone during
9 the taxable year for compensation, and the denominator of which
10 is the total compensation paid by the taxpayer in this state during
11 the 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, as if it were an amount exceeding the "net tax" for the
15 taxable year, as provided in subdivision (i).

16 (j) A credit shall not be allowed under this section for a taxpayer
17 that has been notified by the Director of Industrial Relations of a
18 final determination, based on the taxpayer's history of significant
19 employment violations, that the taxpayer is considered by the
20 Department of Industrial Relations as a serious, repeated, and
21 willful violator of state employment laws, including, but not limited
22 to, demonstrating a failure to successfully abate these violations.

23 (k) A taxpayer shall be required to register a business pursuant
24 to the Enterprise Zone Act (Chapter 12.8 (commencing with Section
25 7070) of Division 7 of Title 1 of the Government Code), and shall
26 state under penalty of perjury that the taxpayer is a registered
27 business in one or more enterprise zones, as a condition of claiming
28 a credit under this section.

29 SEC. 25. Section 17053.74 of the Revenue and Taxation Code
30 is amended to read:

31 17053.74. (a) There shall be allowed a credit against the "net
32 tax" (as defined in Section 17039) to a taxpayer who employs a
33 qualified employee in an enterprise zone during the taxable year.
34 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

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

10 (ii) For up to 1,350 qualified employees who are employed by
11 the taxpayer in the Long Beach Enterprise Zone in aircraft
12 manufacturing activities described in Codes ~~3721 to 3728,~~
13 ~~inclusive, and Code 3812 of the Standard Industrial Classification~~
14 ~~(SIC) Manual 311 to 339, inclusive, of the North American Industry~~
15 ~~Classification System~~ published by the United States Office of
16 Management and Budget, ~~1987~~ 2007 edition, “qualified wages”
17 means that portion of hourly wages that does not exceed 202
18 percent of the minimum wage.

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

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

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

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

(4) (A) “Qualified employee” means an individual who was hired by a taxpayer before January 1, 2011, and who meets all of the following requirements:

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

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

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

(iv) Is any of the following:

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

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

~~(III)~~

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

~~(IV)~~

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

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

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

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 *federal* Clean Air Act.

25 ~~(V)~~

26 (III) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a disabled
28 individual who is eligible for or enrolled in, or has completed a
29 state rehabilitation plan ~~or is~~.

30 (IV) *Immediately preceding the qualified employee's*
31 *commencement of employment with the taxpayer, was a*
32 *service-connected disabled veteran, veteran of the Vietnam era,*
33 *or veteran who is recently separated from military service.*

34 ~~(VI)~~

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

40 ~~(VII)~~

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

- (aa) Federal Supplemental Security Income benefits.
- (bb) ~~Aid to Families with Dependent Children Temporary Assistance for Needy Families.~~
- (cc) *Medi-Cal or Healthy Families.*
- (~~ee~~)
- (dd) Food stamps.
- (~~dd~~)
- (ee) State and local general assistance.
- (ff) *Intensive services, including employment training services, funded through the federal Workforce Investment Act (Public Law 105-220).*
- (gg) *Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).*
- (hh) *Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).*

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

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

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

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

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job~~

1 ~~Training Partnership Act or the Greater Avenues for Independence~~
2 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~
3 or who is eligible as a member of a targeted group under the Work
4 Opportunity Tax Credit (Section 51 of the Internal Revenue Code),
5 or its successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (l) *The changes made to this section by the act adding this*
36 *subdivision shall apply only to qualified employees hired prior to*
37 *January 1, 2011.*

38 (m) *This section shall remain in effect only until January 1,*
39 *2017, and as of that date is repealed.*

SEC. 26. Section 17235 of the Revenue and Taxation Code is amended to read:

17235. (a) ~~There~~ (1) For taxable years beginning on or after January 1, 2011, and before January 1, 2013, there shall be allowed as a deduction in an amount equal to 50 percent of the amount of net interest received by the taxpayer in payment on indebtedness of a person or entity engaged in the conduct of a trade or business located in an enterprise zone.

(2) For taxable years beginning on or after January 1, 2013, there shall be allowed as a deduction the amount of net interest received by the taxpayer in payment on indebtedness of a person or entity engaged in the conduct of a trade or business located in an enterprise zone.

(b) ~~No~~ A deduction shall be allowed under this section ~~unless~~ only if at the time the indebtedness is incurred each of the following requirements are met:

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

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

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

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

(d) For taxable years beginning on or after January 1, 2011, a taxpayer shall be required to register a business pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more enterprise zones, as a condition of claiming a deduction under this section.

(e) The changes made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.

SEC. 27. Section 23036.3 is added to the Revenue and Taxation Code, to read:

23036.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for each taxable year beginning on or after January 1, 2011, and

1 before January 1, 2013, the total of all credits otherwise allowable
2 under Sections 23612.2, 23622.6, 23622.7, 23645, and 23646,
3 including the carryover of these credits, for the taxable year shall
4 not reduce the “tax,” as defined in Section 23036, below the
5 applicable amount.

6 (b) For purposes of this section, the “applicable amount” shall
7 be equal to 50 percent of the “tax,” as defined in Section 23036,
8 before application of any credits.

9 (c) The amount of any credit otherwise allowable for the taxable
10 year under Sections 23612.2, 23622.6, 23622.7, 23645, and 23646
11 that is not allowed due to the application of this section shall
12 remain a credit carryover amount as otherwise allowed by this
13 part.

14 (d) The carryover period for any credit that is not allowed due
15 to the application of this section shall be increased by the number
16 of taxable years the credit, or any portion thereof, was not allowed.

17 (e) This section shall not apply to a taxpayer with gross income
18 of less than one million dollars (\$1,000,000) for the taxable year.

19 (f) This section shall remain in effect only until December 1,
20 2013, and as of that date is repealed.

21 SEC. 28. Section 23612.2 of the Revenue and Taxation Code
22 is amended to read:

23 23612.2. (a) There shall be allowed as a credit against the
24 “tax” (as defined by Section 23036) for the taxable year an amount
25 equal to the sales or use tax paid or incurred during the taxable
26 year by the taxpayer in connection with the taxpayer’s purchase
27 of qualified property.

28 (b) For purposes of this section:

29 (1) “Taxpayer” means a corporation engaged in a trade or
30 business within an enterprise zone.

31 (2) “Qualified property” means:

32 (A) Any of the following:

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

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

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

39 (I) Air pollution control mechanisms.

40 (II) Water pollution control mechanisms.

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

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

8 (B) The total cost of qualified property purchased and placed
9 in service in any taxable year that may be taken into account by
10 any taxpayer for purposes of claiming this credit shall not exceed
11 twenty million dollars (\$20,000,000).

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

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

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

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

24 (d) In the case where the credit otherwise allowed under this
25 section exceeds the "tax" for the taxable year, that portion of the
26 credit which exceeds the "tax" may be carried over and added to
27 the credit, if any, in the following year, and *the* succeeding 14
28 years if necessary, until the credit is exhausted. The credit shall
29 be applied first to the earliest taxable years possible.

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

35 (f) (1) The amount of credit otherwise allowed under this
36 section and Section 23622.7, including any credit carryover from
37 prior years, that may reduce the "tax" for the taxable year shall
38 not exceed the amount of tax which would be imposed on the
39 taxpayer's business income attributable to the enterprise zone

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

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

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

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

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

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

32 *(g) A taxpayer shall be required to register a business pursuant*
33 *to the Enterprise Zone Act (Chapter 12.8 (commencing with Section*
34 *7070) of Division 7 of Title 1 of the Government Code), and shall*
35 *state under penalty of perjury that the taxpayer is a registered*
36 *business in one or more enterprise zones, as a condition of claiming*
37 *a credit under this section.*

38 ~~(g)~~

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

4 (i) *The amendments made to this section by the act adding this*
5 *subdivision shall apply only to taxable years beginning on or after*
6 *January 1, 2011.*

7 SEC. 29. Section 23622.6 is added to the Revenue and Taxation
8 Code, to read:

9 23622.6. (a) For each taxable year beginning on or after
10 January 1, 2011, there shall be allowed a credit against the “tax”
11 (as defined by Section 23036) to a taxpayer that employs a
12 qualified employee in an enterprise zone during the taxable year.
13 The credit shall be equal to the sum of each of the following:

14 (1) Thirty percent of qualified wages in the first year of
15 employment.

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

18 (3) Fifty percent of qualified wages in the third year of
19 employment.

20 (b) For purposes of this section:

21 (1) “Controlled group of corporations” means “controlled
22 group of corporations” as defined in Section 1563(a) of the
23 Internal Revenue Code, except that:

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

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

30 (2) “Enterprise zone” means an area designated as an
31 enterprise zone pursuant to Chapter 12.8 (commencing with
32 Section 7070) of Division 7 of Title 1 of the Government Code.

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

37 (4) (A) “Qualified employee” means an individual who was
38 hired by a taxpayer on or after January 1, 2011, and 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
- 3 taxpayer's 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
- 7 designation of the area in which services were performed as an
- 8 enterprise zone.
- 9 (iv) Is any of the following:
- 10 (I) Immediately preceding the qualified employee's
- 11 commencement of employment with the taxpayer, was an
- 12 economically disadvantaged individual 14 years of age or older.
- 13 (II) Immediately preceding the qualified employee's
- 14 commencement of employment with the taxpayer, was a dislocated
- 15 worker who meets any of the following:
- 16 (ia) Has been terminated or laid off or who has received a notice
- 17 of termination or layoff from employment, is eligible for or has
- 18 exhausted entitlement to unemployment insurance benefits, and is
- 19 unlikely to return to his or her previous industry or occupation.
- 20 (ib) Has been terminated or has received a notice of termination
- 21 of employment as a result of any permanent closure or any
- 22 substantial layoff at a plant, facility, or enterprise, including an
- 23 individual who has not received written notification but whose
- 24 employer has made a public announcement of the closure or layoff.
- 25 (ic) Is long-term unemployed and has limited opportunities for
- 26 employment or reemployment in the same or a similar occupation
- 27 in the area in which the individual resides, including an individual
- 28 55 years of age or older who may have substantial barriers to
- 29 employment by reason of age.
- 30 (id) Was self-employed (including farmers and ranchers) and
- 31 is unemployed as a result of general economic conditions in the
- 32 community in which he or she resides or because of natural
- 33 disasters.
- 34 (ie) Was a civilian employee of the Department of Defense
- 35 employed at a military installation being closed or realigned under
- 36 the Defense Base Closure and Realignment Act of 1990.
- 37 (if) Was an active member of the armed forces or National
- 38 Guard as of September 30, 1990, and was either involuntarily
- 39 separated or separated pursuant to a special benefits program.

1 ~~(ig) Is a seasonal or migrant worker who experiences chronic~~
2 ~~seasonal unemployment and underemployment in the agriculture~~
3 ~~industry, aggravated by continual advancements in technology~~
4 ~~and mechanization.~~

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

8 ~~(III) Immediately preceding the qualified employee's~~
9 ~~commencement of employment with the taxpayer, was a disabled~~
10 ~~individual who is eligible for or enrolled in, or has completed a~~
11 ~~state rehabilitation plan.~~

12 ~~(IV) Immediately preceding the qualified employee's~~
13 ~~commencement of employment with the taxpayer, was a~~
14 ~~service-connected disabled veteran, veteran of the Vietnam era,~~
15 ~~or veteran who is recently separated from military service.~~

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

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

24 ~~(ia) Federal Supplemental Security Income benefits.~~

25 ~~(ib) Temporary Assistance for Needy Families.~~

26 ~~(ic) Medi-Cal or Healthy Families.~~

27 ~~(id) Food stamps.~~

28 ~~(ie) State and local general assistance.~~

29 ~~(if) Intensive services including employment training services~~
30 ~~funded through the federal Workforce Investment Act (Public Law~~
31 ~~105-220).~~

32 ~~(ig) Voluntary or mandatory services under the California Work~~
33 ~~Opportunity and Responsibility to Kids (CalWORKs) program~~
34 ~~(Chapter 2 (commencing with Section 11200) of Part 3 of Division~~
35 ~~9 of the Welfare and Institutions Code).~~

36 ~~(ih) Federal Work Opportunity Tax Credit (Section 51 of the~~
37 ~~Internal Revenue Code).~~

38 ~~(VII) 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 (VIII) 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, and the employee is receiving a wage that does
7 not exceed the median income for a family of four within the census
8 block groups of the enterprise zone, as defined by the United States
9 Census Bureau.

10 (IX) An employee who qualified the taxpayer for the enterprise
11 zone hiring credit under former Section 23622 or the program
12 area hiring credit under former Section 23623.

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

18 (5) "Qualified wages" means:

19 (A) (i) Except as provided in clause (ii), that portion of wages
20 paid or incurred by the taxpayer during the taxable year to
21 qualified employees that does not exceed 180 percent of the
22 minimum wage.

23 (ii) Qualified employees who are employed by a taxpayer
24 manufacturing activities described in Codes 311 to 339, inclusive,
25 of the North American Industry Classification System published
26 by the United States Office of Management and Budget, 2007
27 edition, "qualified wages" means that portion of hourly wages
28 that does not exceed 202 percent of the minimum wage.

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

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

1 zone expiration date, in accordance with all provisions of this
2 section applied as if the enterprise zone designation were still in
3 existence and binding.

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

7 (7) "Taxpayer" means a corporation engaged in a trade or
8 business within an enterprise zone designated pursuant to Chapter
9 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
10 the Government Code.

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

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

14 (1) Apply for certification, within 36 months of an employee
15 being hired, from the Employment Development Department, as
16 permitted by federal law, the local county or city federal Workforce
17 Investment Act administrative entity, the local county CalWORKs
18 program office or social services agency, or the local government
19 administering the enterprise zone, a certification that provides
20 that a qualified employee meets the eligibility requirements
21 specified in clause (iv) of subparagraph (A) of paragraph (4) of
22 subdivision (b). The Employment Development Department may
23 provide preliminary screening and referral to businesses located
24 in an enterprise zone as part of the department's implementation
25 of the intensive services activities funded through the federal
26 Workforce Investment Act. The Department of Housing and
27 Community Development shall develop regulations governing the
28 issuance of certificates by local governments pursuant to
29 subdivision (a) of Section 7086 of the Government Code.

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

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

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

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

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

10 (B) If a taxpayer relocated to an enterprise zone from within
11 the state, the taxpayer shall be allowed a credit only for that
12 number of employees that exceeds the number of employees at the
13 previous location. The number of employees at the previous
14 location and the type of jobs undertaken shall be established by
15 the Employment Development Department. Exceptions to this
16 subparagraph shall be limited to the following:

17 (i) Employees who undertake core work activities or activities
18 that are the primary job duties of the employee that are
19 significantly different from those activities at the previous location,
20 as determined by the Employment Development Department.

21 (ii) Employees of taxpayers that receive a bona fide offer to
22 relocate to another state.

23 (iii) Employees who relocate as a result of a natural disaster,
24 civic unrest, or eminent domain proceeding.

25 (e) (1) (A) If the employment, other than seasonal employment,
26 of any qualified employee with respect to whom qualified wages
27 are taken into account under subdivision (a), is terminated by the
28 taxpayer at any time during the first 300 days of that employment,
29 whether or not consecutive, or before the close of the 300th
30 calendar day after the day in which that employee completes 90
31 days of employment with the taxpayer, the tax imposed by this part
32 for the taxable year in which that employment is terminated shall
33 be increased by an amount equal to the credit allowed under
34 subdivision (a) for that taxable year and all prior taxable years
35 attributable to qualified wages paid or incurred with respect to
36 that employee.

37 (B) If the seasonal employment of any qualified employee, with
38 respect to whom qualified wages are taken into account under
39 subdivision (a) is not continued by the taxpayer for a period of
40 300 days of employment during the 36-month period beginning

1 with the day the qualified employee commences seasonal
2 employment with the taxpayer, the tax imposed by this part, for
3 the taxable year that includes the 36th month following the month
4 in which the qualified employee commences seasonal employment
5 with the taxpayer, shall be increased by an amount equal to the
6 credit allowed under subdivision (a) for that taxable year and all
7 prior taxable years attributable to qualified wages paid or incurred
8 with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (h) The credit allowable under this section shall be reduced by
39 the credit allowed under Sections 23623.5, 23625, and 23646
40 claimed for the same employee. The credit shall also be reduced

1 by the federal credit allowed under Section 51 of the Internal
2 Revenue Code.

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

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

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

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

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

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

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

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

10 (k) A credit shall not be allowed under this section for a taxpayer
11 that has been notified by the Director of Industrial Relations of a
12 final determination, based on the taxpayer’s history of significant
13 employment violations, that the taxpayer is considered by the
14 Department of Industrial Relations as a serious, repeated, and
15 willful violator of state employment laws, including, but not limited
16 to, demonstrating a failure to successfully abate these violations.

17 (l) A taxpayer shall be required to register a business pursuant
18 to the Enterprise Zone Act (Chapter 12.8 (commencing with Section
19 7070) of Division 7 of Title 1 of the Government Code), and shall
20 state under penalty of perjury that the taxpayer is a registered
21 business in one or more enterprise zones, as a condition of claiming
22 a credit under this section.

23 SEC. 30. Section 23622.7 of the Revenue and Taxation Code
24 is amended to read:

25 23622.7. (a) There shall be allowed a credit against the “tax”
26 (as defined by Section 23036) to a taxpayer who employs a
27 qualified employee in an enterprise zone during the taxable year.
28 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

39 (b) For purposes of this section:

40 (1) “Qualified wages” means:

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

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes ~~3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual 311 to 339, inclusive, of the North American Industry Classification System~~ published by the United States Office of Management and Budget, ~~1987~~ 2007 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

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

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

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

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

(4) (A) “Qualified employee” means an individual who was hired by a taxpayer before January 1, 2011, and who meets all of the following requirements:

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

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

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

5 (iv) Is any of the following:

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

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

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

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

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

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

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

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

3 (dd) 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 *federal* Clean Air Act.

20 ~~(V)~~

21 *(III) Immediately preceding the qualified employee's*
22 *commencement of employment with the taxpayer, was a disabled*
23 *individual who is eligible for or enrolled in, or has completed a*
24 *state rehabilitation plan* ~~or is~~.

25 *(IV) Immediately preceding the qualified employee's*
26 *commencement of employment with the taxpayer, was a*
27 *service-connected disabled veteran, veteran of the Vietnam era,*
28 *or veteran who is recently separated from military service.*

29 ~~(VI)~~

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

35 ~~(VII)~~

36 (VI) 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.

- 1 ~~(bb) Aid to Families with Dependent Children Temporary~~
2 ~~Assistance for Needy Families.~~
3 (cc) *Medi-Cal or Healthy Families.*
4 ~~(ee)~~
5 (dd) Food stamps.
6 ~~(dd)~~
7 (ee) State and local general assistance.
8 (ff) *Intensive services, including employment training services,*
9 ~~funded through the federal Workforce Investment Act (Public Law~~
10 ~~105-220).~~
11 (gg) *Voluntary or mandatory services under the California Work*
12 ~~Opportunity and Responsibility to Kids (CalWORKs) program~~
13 ~~(Chapter 2 (commencing with Section 11200) of Part 3 of Division~~
14 ~~9 of the Welfare and Institutions Code).~~
15 (hh) *Federal Work Opportunity Tax Credit (Section 51 of the*
16 ~~Internal Revenue Code).~~
17 ~~(VIII)~~
18 (VII) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a member
20 of a federally recognized Indian tribe, band, or other group of
21 Native American descent.
22 ~~(IX)~~
23 (VIII) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a resident
25 of a targeted employment area (as defined in Section 7072 of the
26 Government Code).
27 ~~(X)~~
28 (IX) An employee who qualified the taxpayer for the enterprise
29 zone hiring credit under former Section 23622 or the program area
30 hiring credit under former Section 23623.
31 ~~(XI) Immediately preceding the qualified employee's~~
32 ~~commencement of employment with the taxpayer, was a member~~
33 ~~of a targeted group, as defined in Section 51(d) of the Internal~~
34 ~~Revenue Code, or its successor.~~
35 (B) Priority for employment shall be provided to an individual
36 who is enrolled in a qualified program under the federal ~~Job~~
37 ~~Training Partnership Act or the Greater Avenues for Independence~~
38 ~~Act of 1985 Workforce Investment Act or the CalWORKs program~~
39 or who is eligible as a member of a targeted group under the Work

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (l) *The changes made to this section by the act adding this*
6 *subdivision shall apply only to qualified employees hired prior to*
7 *January 1, 2011.*

8 (m) *This section shall remain in effect only until January 1,*
9 *2017, and as of the that date is repealed.*

10 SEC. 31. *Section 23622.8 of the Revenue and Taxation Code*
11 *is amended to read:*

12 23622.8. (a) For each taxable year beginning on or after
13 January 1, 1998, there shall be allowed a credit against the “tax”
14 (as defined in Section 23036) to a qualified taxpayer for hiring a
15 qualified disadvantaged individual during the taxable year for
16 employment in the manufacturing enhancement area. The credit
17 shall be equal to the sum of each of the following:

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

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

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

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

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

28 (b) For purposes of this section:

29 (1) “Qualified wages” means:

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

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

37 (C) Wages received during the 60-month period beginning with
38 the first day the qualified disadvantaged individual commences
39 employment with the qualified taxpayer. Reemployment in
40 connection with any increase, including a regularly occurring

seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

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

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

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

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

(5) “Qualified disadvantaged individual” means an individual who *was hired by a qualified taxpayer before January 1, 2011, and who* satisfies all of the following requirements:

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

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

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

(C) ~~Who is any of the following~~, immediately preceding the individual’s commencement of employment with the qualified

1 taxpayer, was certified as eligible by the Employment Development
2 Department under the federal Targeted Jobs Tax Credit Program,
3 or its successor, whether or not this program is in effect.

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

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

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

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

20 (A) Is engaged in those lines of business described in Codes
21 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
22 inclusive, of the Standard Industrial Classification (SIC) Manual
23 published by the United States Office of Management and Budget,
24 1987 edition.

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

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

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

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

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

39 (B) The credit (if any) allowable by this section with respect to
40 each member shall be determined by reference to its proportionate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the California Code of Regulations) of that qualified disadvantaged
2 individual.

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

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

12 (C) For purposes of paragraph (1), the employment relationship
13 between the qualified taxpayer and a qualified disadvantaged
14 individual shall not be treated as terminated by either of the
15 following:

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

19 (ii) By reason of a mere change in the form of conducting the
20 trade or business of the qualified taxpayer, if the qualified
21 disadvantaged individual continues to be employed in that trade
22 or business and the qualified taxpayer retains a substantial interest
23 in that trade or business.

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

27 (e) The credit shall be reduced by the credit allowed under
28 Section 23621. The credit shall also be reduced by the federal
29 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

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

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

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

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

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, 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~~ *federal Workforce Investment Act of 1998 administrative entity, the local county CalWORKs program office* or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

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

(j) *This section shall remain in effect only until January 1, 2017, and as of that date is repealed.*

SEC. 32. *Section 23634 of the Revenue and Taxation Code is amended to read:*

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

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

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

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

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

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

26 (4) (A) “Qualified employee” means an individual who *was*
27 *hired by a qualified taxpayer before January 1, 2011, and who*
28 *meets all of the following requirements:*

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

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

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

38 (iv) Is any of the following:

39 ~~(I) Immediately preceding the qualified employee’s~~
40 ~~commencement of employment with the qualified taxpayer, was~~

1 a person eligible for services under the federal Job Training
2 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
3 who is receiving, or is eligible to receive, subsidized employment,
4 training, or services funded by the federal Job Training Partnership
5 Act, or its successor.

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

13 (III)

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

17 (IV)

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

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

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

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

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

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

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

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

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

~~(V)~~

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

~~(IV)~~ Immediately preceding the qualified employee's commencement of employment with taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

~~(VI)~~

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

~~(VII)~~

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

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

~~(VIII)~~

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

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

3 ~~(IX)~~

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

7 ~~(X)~~

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

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

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

21 (i) Is engaged in a trade or business within a targeted tax area
22 designated pursuant to Chapter 12.93 (commencing with Section
23 7097) of Division 7 of Title 1 of the Government Code.

24 (ii) Is engaged in those lines of business described in Codes
25 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
26 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
27 of the Standard Industrial Classification (SIC) Manual published
28 by the United States Office of Management and Budget, 1987
29 edition.

30 (B) In the case of any passthrough entity, the determination of
31 whether a taxpayer is a qualified taxpayer under this section shall
32 be made at the entity level and any credit under this section or
33 Section 17053.34 shall be allowed to the passthrough entity and
34 passed through to the partners or shareholders in accordance with
35 applicable provisions of this part or Part 10 (commencing with
36 Section 17001). For purposes of this subparagraph, the term
37 "passthrough entity" means any partnership or S corporation.

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

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

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

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county GAIN office~~ *federal Workforce Investment of 1998 administrative entity, the local county CalWORKs program office* or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

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

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

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

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

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

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

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

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

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

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

19 (B) If the seasonal employment of any qualified employee, with
20 respect to whom qualified wages are taken into account under
21 subdivision (a) is not continued by the qualified taxpayer for a
22 period of 270 days of employment during the 60-month period
23 beginning with the day the qualified employee commences seasonal
24 employment with the qualified taxpayer, the tax imposed by this
25 part, for the taxable year that includes the 60th month following
26 the month in which the qualified employee 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 employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (ii) By reason of a mere change in the form of conducting the
5 trade or business of the qualified taxpayer, if the qualified
6 employee continues to be employed in that trade or business and
7 the qualified taxpayer retains a substantial interest in that trade or
8 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 (g) Rules similar to the rules provided in Sections 46(e) and (h)
13 of the Internal Revenue Code shall apply to both of the following:

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

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

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

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

27 (j) (1) The amount of the credit otherwise allowed under this
28 section and Section 23633, including any credit carryover from
29 prior years, that may reduce the “tax” for the taxable year shall
30 not exceed the amount of tax that would be imposed on the
31 qualified taxpayer’s business income attributable to the targeted
32 tax area determined as if that attributable income represented all
33 of the income of the qualified taxpayer subject to tax under this
34 part.

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

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

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

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

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

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

24 (5) In the event that a credit carryover is allowable under
25 subdivision (h) for any taxable year after the targeted tax area
26 designation has expired or been revoked, the targeted tax area shall
27 be deemed to remain in existence for purposes of computing the
28 limitation specified in this subdivision.

29 (k) *This section shall remain in effect only until January 1, 2017,*
30 *and as of that date is repealed.*

31 *SEC. 33. Section 23645 of the Revenue and Taxation Code is*
32 *amended to read:*

33 23645. (a) For each taxable year beginning on or after January
34 1, 1995, there shall be allowed as a credit against the "tax" (as
35 defined by Section 23036) for the taxable year an amount equal
36 to the sales or use tax paid or incurred by the taxpayer in
37 connection with the purchase of qualified property to the extent
38 that the qualified property does not exceed a value of twenty
39 million dollars (\$20,000,000).

40 (b) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

3 (C) Any of the following:

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

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

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

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

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

18 (d) In the case where the credit otherwise allowed under this
19 section exceeds the “tax” for the taxable year, that portion of the
20 credit which exceeds the “tax” may be carried over and added to
21 the credit, if any, in *the following year, and the succeeding 14*
22 *years if necessary*, until the credit is exhausted. The credit shall
23 be applied first to the earliest taxable years possible.

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

29 (f) (1) The amount of the credit otherwise allowed under this
30 section and Section 23646, including any credit carryovers from
31 prior years, that may reduce the “tax” for the taxable year shall
32 not exceed the amount of tax that would be imposed on the
33 taxpayer’s business income attributed to a LAMBRA determined
34 as if that attributable income represented all the income of the
35 taxpayer subject to tax under this part.

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

That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

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

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

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

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

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

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

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

(i) *A taxpayer shall be required to register a business pursuant to the Local Agency Military Base Recovery Area Act (Chapter*

12.97 (commencing with Section 7105) of Division 7 of Title 1 of the Government Code), and shall state under penalty of perjury that the taxpayer is a registered business in one or more LAMBRAs, as a condition of claiming a credit under this section.

(i)

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

(k) The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2011.

SEC. 34. Section 23646 of the Revenue and Taxation Code is amended to read:

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

(1) ~~Fifty~~ Thirty 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~~ Fifty 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) (i) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed ~~150~~ 180 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in aircraft manufacturing activities described in Codes 311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, 2007 edition, “qualified wages” means that portion of

1 *hourly wages that does not exceed 202 percent of the minimum*
2 *wage.*

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

7 (C) Wages received during the ~~60-month~~ 36-month period
8 beginning with the first day the individual commences employment
9 with the taxpayer. Reemployment in connection with any increase,
10 including a regularly occurring seasonal increase, in the trade or
11 business operation of the qualified taxpayer does not constitute
12 commencement of employment for purposes of this section.

13 (D) Qualified wages do not include any wages paid or incurred
14 by the qualified taxpayer on or after the LAMBRA expiration date.
15 However, wages paid or incurred with respect to qualified
16 disadvantaged individuals or qualified displaced employees who
17 are employed by the qualified taxpayer within the LAMBRA within
18 the ~~60-month~~ 36-month period prior to the LAMBRA expiration
19 date shall continue to qualify for the credit under this section after
20 the LAMBRA expiration date, in accordance with all provisions
21 of this section applied as if the LAMBRA designation were still
22 in existence and binding.

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

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

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

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

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

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

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

3 ~~(i) An individual who has been determined eligible for services~~
4 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
5 ~~1501 et seq.), or its successor.~~

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

10 (iii)

11 (i) An economically disadvantaged individual age 16 years or
12 older.

13 (iv)

14 (ii) A dislocated worker who meets any of the following
15 conditions:

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

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

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

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

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

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

1 (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 *federal* Clean Air Act.

7 ~~(v)~~

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

12 ~~(vi)~~

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

16 ~~(vii)~~

17 (v) A recipient of:

18 (I) Federal Supplemental Security Income benefits.

19 (II) Aid to Families with Dependent Children.

20 (III) Food stamps.

21 (IV) State and local general assistance.

22 ~~(viii)~~

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

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

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

1 increase in jobs in the state, the credit shall be allowed only if one
2 or more full-time employees is employed within the LAMBRA.

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) ~~Obtain~~ *Apply for certification, within 36 months of an*
38 *employee being hired, from the Employment Development*
39 *Department, as permitted by federal law, the administrative entity*
40 *of the local county or city for the federal Job Training Partnership*

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

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

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

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

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

23 (2) For purposes of this subdivision, “controlled group of
24 corporations” has the meaning given to that term by Section
25 1563(a) of the Internal Revenue Code, except that both of the
26 following apply:

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

30 (B) The determination shall be made without regard to Section
31 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
32 Code.

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

1 (B) If a taxpayer relocated to a LAMBRA from within the state,
2 the taxpayer shall be allowed a credit only for that number of
3 employees that exceeds the number of employees at the previous
4 location. The number of employees at the previous location and
5 the type of jobs undertaken shall be established by the Employment
6 Development Department. Exceptions to this subparagraph shall
7 be limited to the following:

8 (i) Employees who undertake core work activities or activities
9 that are the primary job duties of the employee that are
10 significantly different from those activities at the previous location,
11 as determined by the Employment Development Department.

12 (ii) Employees of taxpayers that receive a bona fide offer to
13 relocate to another state.

14 (iii) Employees who relocate as a result of a natural disaster,
15 civic unrest, or eminent domain proceeding.

16 (e) (1) (A) If the employment of any employee, other than
17 seasonal employment, with respect to whom qualified wages are
18 taken into account under subdivision (a) is terminated by the
19 taxpayer at any time during the first ~~270~~ 300 days of that
20 employment (whether or not consecutive) or before the close of
21 the ~~270th~~ 300th calendar day after the day in which that employee
22 completes 90 days of employment with the taxpayer, the tax
23 imposed by this part for the taxable year in which that employment
24 is terminated shall be increased by an amount equal to the credit
25 allowed under subdivision (a) for that taxable year and all prior
26 income years attributable to qualified wages paid or incurred with
27 respect to that employee.

28 (B) If the seasonal employment of any qualified disadvantaged
29 individual, with respect to whom qualified wages are taken into
30 account under subdivision (a) is not continued by the qualified
31 taxpayer for a period of ~~270~~ 300 days of employment during the
32 ~~60~~ 36-month period beginning with the day the qualified
33 disadvantaged individual commences seasonal employment with
34 the qualified taxpayer, the tax imposed by this part, for the taxable
35 year that includes the ~~60th~~ 36th month following the month in
36 which the qualified disadvantaged individual commences seasonal
37 employment with the qualified taxpayer, shall be increased by an
38 amount equal to the credit allowed under subdivision (a) for that
39 taxable year and all prior taxable years attributable to qualified

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (ii) A mere change in the form of conducting the trade or
17 business of the taxpayer, if the employee continues to be employed
18 in that trade or business and the taxpayer retains a substantial
19 interest in that trade or business.

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

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

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

33 (g) The credit shall be reduced by the credit allowed under
34 Section 23621. The credit shall also be reduced by the federal
35 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

7 (k) *A credit shall not be allowed under this section to a taxpayer*
8 *that has been notified by the Director of Industrial Relations of a*
9 *final determination, based on the taxpayer’s history of significant*
10 *employment violations, that the taxpayer is considered by the*
11 *Department of Industrial Relations as a serious, repeated, and*
12 *willful violator of state employment laws, including, but not limited*
13 *to, demonstrating a failure to successfully abate these violations.*

14 (l) *A taxpayer shall be required to register a business pursuant*
15 *to the Local Agency Military Base Recovery Area Act (Chapter*
16 *12.97 (commencing with Section 7105) of Division 7 of Title 1 of*
17 *the Government Code), and shall state under penalty of perjury*
18 *that the taxpayer is a registered business in one or more LAMBRAs,*
19 *as a condition of claiming a credit under this section.*

20 (m) *The changes made to this section by the act adding this*
21 *subdivision shall apply only to qualified disadvantaged individuals*
22 *hired by a qualified taxpayer on or after January 1, 2011.*

23 SEC. 35. *Section 24384.5 of the Revenue and Taxation Code*
24 *is amended to read:*

25 24384.5. (a) ~~There~~ (1) *For taxable years beginning on or*
26 *after January 1, 2011, and before January 1, 2013, there shall be*
27 *allowed as a deduction in an amount equal to 50 percent of the*
28 *amount of net interest received by the taxpayer in payment on*
29 *indebtedness of a person or entity engaged in the conduct of a*
30 *trade or business located in an enterprise zone.*

31 (2) *For taxable years beginning on or after January 1, 2013,*
32 *there shall be allowed as a deduction the amount of net interest*
33 *received by the taxpayer in payment of indebtedness of a person*
34 *or entity engaged in a trade or business located in an enterprise*
35 *zone.*

36 (b) ~~No~~ *A deduction shall be allowed under this section unless*
37 *only if at the time the indebtedness is incurred each of the following*
38 *requirements are met:*

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

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

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

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

8 (d) *For taxable years beginning on or after January 1, 2011, a*
9 *taxpayer shall be required to register a business pursuant to the*
10 *Enterprise Zone Act (Chapter 12.8 (commencing with Section*
11 *7070) of Division 7 of Title 1 of the Government Code), and shall*
12 *state under penalty of perjury that the taxpayer has a registered*
13 *business in one or more enterprise zones, as a condition of claiming*
14 *a deduction under this section.*

15 (e) *The changes made to this section by the act adding this*
16 *subdivision shall apply only to taxable years beginning on or after*
17 *January 1, 2011.*

18 SEC. 36. *No reimbursement is required by this act pursuant*
19 *to Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*

27 SEC. 37. *This act provides for a tax levy within the meaning*
28 *of Article IV of the Constitution and shall go into immediate effect.*
29
30

31 **All matter omitted in this version of the bill**
32 **appears in the bill as amended in the**
33 **Assembly, March 22, 2011. (JR11)**
34