

AMENDED IN ASSEMBLY JUNE 7, 2011

AMENDED IN ASSEMBLY APRIL 15, 2011

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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 17053.33, 17053.45, 17053.46, 17053.70, ~~17235, 23612.2, 17053.74, 17235, 23612.2, 23622.7, 23633, 23645, 23646, and 24384.5~~ of, to amend and repeal Sections 17053.34, 17053.47, ~~17053.74, 17276.2, 17276.5, 23622.7, 23622.8, 23634, 24416.2, and 24416.5~~ of, to add Sections ~~17053.73, 17276.11, 23622.6, and 24416.11~~ 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-TEDAs 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~~ *revise* the enterprise zone hiring credit ~~in existing law, except,~~ so 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 new~~ requirements for a taxpayer ~~to claim~~ *claiming* 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, targeted tax area, 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, targeted tax area, 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 Personal Income Tax Law and the Corporation Tax Law allow a deduction for a net operating loss of a person or entity engaged in business in an enterprise zone or a LAMBRA, and any unused net operating losses to be a net operating loss carryover to other years, as specified.

This bill would allow a deduction for those net operating losses only for taxable years beginning before January 1, 2011, but would allow any unused net operating losses to continue to be carried to other years as provided.

(7) 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.

(8) 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.

(9) 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:*

4
5 CHAPTER 12.8. ~~ENTERPRISE~~ CALIFORNIA ECONOMIC AND
6 COMMUNITY DEVELOPMENT ZONE ACT
7

8 SEC. 2. *Section 7070 of the Government Code is amended to*
9 *read:*

10 7070. (a) This chapter shall be known and may be cited as the
11 ~~Enterprise~~ California Economic and Community Development
12 Zone Act.

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

16 SEC. 3. *Section 7071 of the Government Code is amended to*
17 *read:*

18 7071. The Legislature finds and declares as follows:

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

1 (b) The geographically targeted economic development area
2 (G-TEDA) programs are based on the economic principle that
3 targeting significant incentives to lower income communities allows
4 these communities to more effectively compete for new businesses
5 and retain existing businesses, which results in increased tax
6 revenues, less reliance on social services, and lower public safety
7 costs. Residents and businesses also directly benefit from these
8 more sustainable economic conditions through improved
9 neighborhoods, business expansion, and job creation.

10 ~~(b) It~~
11 (c) Therefore, it is in the economic interest of the state to have
12 one strong, combined, and ~~business-friendly~~ business- and
13 community development-friendly incentive program to help attract
14 business and industry to the state, to help retain and expand existing
15 state business and industry, and to create increased job
16 opportunities for all Californians.

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

21 (d) ~~Nothing in this~~ This chapter shall not be construed to infringe
22 upon regulations relating to the civil rights, equal employment
23 rights, equal opportunity rights, or fair housing rights of any person.

24 SEC. 4. Section 7072 of the Government Code is amended to
25 read:

26 7072. For purposes of this chapter, the following definitions
27 shall apply:

28 (a) "Department" means the Department of Housing and
29 Community Development.

30 (b) "Date of original designation" means the earlier of the
31 following:

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

34 (2) In the case of an enterprise zone deemed designated pursuant
35 to subdivision (e) of Section 7073, the date the enterprise zone or
36 program area received original designation by the former Trade
37 and Commerce Agency pursuant to Chapter 12.8 (commencing
38 with Section 7070) or Chapter 12.9 (commencing with Section
39 7080), as those chapters read prior to January 1, 1997.

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

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

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

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

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

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

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

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

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

~~(A)~~

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

~~(B)~~

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

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

5 *(iii) The area within the proposed zone has experienced*
6 *significant distress factors, as defined by the department, including,*
7 *but not limited to, a history of significant gang-related activity,*
8 *high crime rates, or a significant number of plant or business*
9 *closures, or all of these.*

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

13 (d) “Enterprise zone” means any area within a city, county, or
14 city and county that is designated as an enterprise zone by the
15 department in accordance with ~~Section~~ Sections 7073 and 7073.3
16 that include an eligible area and a qualifying commercial or
17 industrial area, or both, as defined by the department.

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

20 (f) “G-TEDA” means a geographically targeted economic
21 development area, which is an area designated as an enterprise
22 zone, a Manufacturing Enhancement Area, a targeted tax area, or
23 a local agency military base recovery area.

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

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

29 (i) (1) ~~“Targeted~~ With respect to a targeted employment area
30 adopted or updated prior to April 1, 2011, “targeted employment
31 area” means an area within a city, county, or city and county that
32 is composed solely of those census tracts designated by the United
33 States Department of Housing and Urban Development as having
34 at least 51 percent of its residents of low- or moderate-income
35 levels, using either the most recent United States ~~Department of~~
36 Census Bureau data available at the time of the original enterprise
37 zone application or the most recent census data available at the
38 time the targeted employment area is designated to determine that
39 eligibility. The purpose of a “targeted employment area” is to
40 encourage businesses in an enterprise zone to hire eligible residents

1 of certain geographic areas within a city, county, or city and county.
2 A targeted employment area may be, but is not required to be, the
3 same as all or part of an enterprise zone. A targeted employment
4 area's boundaries need not be contiguous. A targeted employment
5 area does not need to encompass each eligible census tract within
6 a city, county, or city and county. The governing body of each
7 city, county, or city and county that has jurisdiction of the
8 enterprise zone shall identify those census tracts whose residents
9 are in the most need of this employment targeting. Only those
10 census tracts within the jurisdiction of the city, county, or city and
11 county that has jurisdiction of the enterprise zone may be included
12 in a targeted employment area.

13 (2) At least a part of each eligible census tract within a targeted
14 employment area shall be within the territorial jurisdiction of the
15 city, county, or city and county that has jurisdiction for an
16 enterprise zone. If an eligible census tract encompasses the
17 territorial jurisdiction of two or more local governmental entities,
18 all of those entities shall be a party to the designation of a targeted
19 employment area. However, any one or more of those entities, by
20 resolution or ordinance, may specify that it shall not participate in
21 the application as an applicant, but shall agree to complete all
22 actions stated within the application that apply to its jurisdiction,
23 if the area is designated.

24 (3) Each local governmental entity of each city, county, or city
25 and county that has jurisdiction of an enterprise zone shall approve,
26 by resolution or ordinance, the boundaries of its targeted
27 employment area, regardless of whether a census tract within the
28 proposed targeted employment area is outside the jurisdiction of
29 the local governmental entity.

30 (4) (A) Within 180 days of updated United States census data
31 becoming available, each local governmental entity of each city,
32 county, or city and county that has jurisdiction of an enterprise
33 zone shall approve, by resolution or ordinance, boundaries of its
34 targeted employment area reflecting the new census data. If no
35 changes are necessary to the boundaries based on the most current
36 census data, the enterprise zone may send a letter to the department
37 stating that a review has been undertaken by the respective local
38 governmental entities and no boundary changes are required.

39 (B) A targeted employment area boundary approved prior to
40 the 2000 United States census data becoming available that has

1 not been reviewed and its boundaries revised to reflect the most
2 recent census data, shall be reviewed and updated, and a new
3 resolution or ordinance submitted by the appropriate local
4 governmental entity to the department, by July 1, 2007. However,
5 enterprise zones that expire on or prior to December 31, 2008,
6 shall be exempt from the update requirement.

7 *(5) With respect to a targeted employment area adopted or*
8 *amended on or after April 1, 2011, "targeted employment area"*
9 *means an area within a city, county, or city and county that is*
10 *composed solely of those census block groups designated by the*
11 *United States Department of Housing and Urban Development as*
12 *having at least 51 percent of their residents of low-income levels,*
13 *using the most recent United States Census Bureau data available*
14 *at the time the targeted employment area is adopted or amended*
15 *to determine its eligibility.*

16 SEC. 5. Section 7072.5 of the Government Code is amended
17 to read:

18 7072.5. (a) By April 1, 1998, a governing body that has already
19 ~~designated~~ adopted a ~~target~~ targeted employment area may request,
20 by a resolution of all cities or counties having jurisdiction over the
21 enterprise zone, to ~~re-designate~~ readopt the targeted employment
22 area using more current census data. A targeted employment area
23 ~~shall be comprised of~~ comprise census tracts from only one
24 decennial census.

25 (b) *This section shall apply only to targeted employment areas*
26 *adopted prior to April 1, 2011.*

27 SEC. 6. Section 7072.6 is added to the Government Code, to
28 read:

29 7072.6. (a) *After receiving notification from the department*
30 *of being conditionally designated as an enterprise zone, the*
31 *governing body of the jurisdiction administering the enterprise*
32 *zone shall adopt a resolution or ordinance adopting a targeted*
33 *employment area that meets all the conditions of this section and*
34 *those set forth in paragraph (2) of subdivision (i) of Section 7072,*
35 *and is consistent with the purposes set forth in this section. If two*
36 *or more jurisdictions are jointly administering an enterprise zone,*
37 *a resolution or ordinance adopting the targeted employment area*
38 *shall be adopted by each governing body.*

39 (b) *A targeted employment area serves as the residential base*
40 *of potential low-income workers who are available to work in*

1 businesses located in an enterprise zone. The purpose of a targeted
2 employment area is to help identify neighborhoods of low-income
3 workers for the purpose of providing those workers with
4 employment assistance, training, and job placement. Businesses
5 located in an enterprise zone are encouraged to hire locally to
6 help address some of the poverty and economic dislocation that
7 led to the area's designation as an enterprise zone.

8 (c) (1) A targeted employment area may be, but is not required
9 to be, the same as all or part of an enterprise zone. A targeted
10 employment area's boundaries need not be contiguous. A targeted
11 employment area does not need to encompass each eligible census
12 tract or block group within a city, county, or city and county. The
13 governing body of each city, county, or city and county that has
14 jurisdiction over the zone shall identify those census block groups
15 whose residents are in the most need of this employment targeting.
16 Only those census block groups within the jurisdiction of the city,
17 county, or city and county that have jurisdiction over the zone may
18 be included in a targeted employment area.

19 (2) At least part of each eligible census block group within a
20 targeted employment area shall be within the territorial jurisdiction
21 of the city, county, or city and county that has jurisdiction over an
22 enterprise zone. If an eligible census tract encompasses the
23 territorial jurisdiction of two or more local governmental entities,
24 all of those entities shall be a party to the designation of the
25 targeted employment area. However, any one or more of those
26 entities, by resolution or ordinance, may specify that it or they
27 shall not participate in the application as an applicant or
28 applicants, but shall agree to complete all actions stated within
29 the application that apply to its or their jurisdiction, if the area is
30 designated.

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

36 (2) Every targeted employment area boundary shall be reviewed
37 and updated to the extent necessary to accommodate the new
38 household income data provided by the United States Census
39 Bureau in its five-year American Community Survey. Each
40 governmental entity of each city, county, or city and county that

1 *has jurisdiction over an enterprise zone shall approve, by*
2 *resolution or ordinance, the boundaries of its targeted employment*
3 *area reflecting the new household data and send a copy of its*
4 *resolution with the changes that are necessary to the boundaries*
5 *based on the most current census data, or the governmental entity*
6 *that has jurisdiction over the zone shall send a letter to the*
7 *department stating that the review has been undertaken by the*
8 *respective local governmental entities and no boundary changes*
9 *are required.*

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

15 (B) *The department shall send a notice to the Franchise Tax*
16 *Board and the local enterprise zone administrator that the targeted*
17 *employment area is invalid and that no additional employees will*
18 *be certified based on an employee living in a targeted employment*
19 *area, other than a business that has already had one or more*
20 *vouchers certified by the zone pursuant to Sections 17053.74 and*
21 *23622.7 of the Revenue and Taxation Code.*

22 (C) *A business that has previously received certification of an*
23 *employee is exempt from subparagraph (A). The vouchering*
24 *exemption is nontransferable to any other business.*

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

27 SEC. 7. *Section 7073.1 of the Government Code is amended*
28 *to read:*

29 7073.1. (a) *Except as provided in subdivision (f), any city,*
30 *county, or city and county with an eligible area within its*
31 *jurisdiction may complete a preliminary application for designation*
32 *as an enterprise zone. The applying entity shall establish definitive*
33 *boundaries for the proposed enterprise zone and the targeted*
34 *employment area. An entity may propose zones in areas with*
35 *noncontiguous boundaries, and the department may designate those*
36 *areas as zones if the director determines both of the following:*

37 (1) *The noncontiguous area is needed to implement the*
38 *applicant's economic development strategy.*

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

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

~~(b)~~

(c) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans. For the purposes of this subdivision, important elements of a strategy or plan may include, but are not limited to, all of the following:

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

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

(C) Clear articulation of goals.

(D) Measurable objectives, including targets.

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

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

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

1 (A) The suspension or relaxation of locally originated or
2 modified building codes, zoning laws, general development plans,
3 or rent controls.

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

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

7 (D) Elimination or reduction of construction taxes or business
8 license taxes.

9 (E) The provision or expansion of infrastructure.

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

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

15 (H) The targeting of state and federal job disadvantaged and
16 vocational education grant moneys, including moneys provided
17 by the federal Workforce Investment Act of 1998 (Public Law
18 105-220), or its successor.

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

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

22 (K) The use of tax allocation bonds, special assessment bonds,
23 bonds under the Mello-Roos Community Facilities Act of 1982
24 (Chapter 2.5 (commencing with Section 53311) of Part 1 of
25 Division 2 of Title 5), industrial development bonds, revenue
26 bonds, private activity bonds, housing bonds, bonds issued pursuant
27 to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4
28 (commencing with Section 6584) of Chapter 5), certificates of
29 participation, hospital bonds, redevelopment bonds, school bonds,
30 and all special provisions provided for under federal tax law for
31 enterprise community or empowerment zone bonds.

32 (L) *Redevelopment tax increment moneys and local financing*
33 *authorities.*

34 (M) *Federal Workforce Investment Act moneys and programs*
35 *funded with those moneys.*

36 (N) *Federal Community Development Block Grant Program*
37 *moneys.*

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

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

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

5 (4) When reviewing and ranking new enterprise zone
6 applications, the department shall give bonus points to applications
7 from jurisdictions that meet minimum threshold points and ~~at least~~
8 ~~two~~ both of the following criteria:

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

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

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

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

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

28 (B) The extent the strategy provides for attracting private sector
29 investment.

30 (C) The extent the strategy includes related regional and
31 community-based partnerships for achieving the goals and
32 objectives in the strategy.

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

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

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

1 (G) The extent the strategy sets forth an appropriate funding
2 schedule for management, oversight, and program delivery within
3 the zone relative to the benchmarks, goals, and objectives in the
4 strategy.

5 (H) The extent that the economic development strategy has a
6 comprehensive incentive package for attracting private investment
7 to the enterprise zone.

8 (e)

9 (d) In evaluating applications for designation, the department
10 shall ensure that applications are not disqualified solely because
11 of technical deficiencies, and shall provide applicants with an
12 opportunity to correct the deficiencies. Applications shall be
13 disqualified if the deficiencies are not corrected within two weeks.

14 (d)

15 (e) Except upon dedesignation pursuant to subdivision (c) of
16 Section 7076.1, Section 7076.2, or Section 7085.1, a designation
17 made by the department shall be binding for a period of 15 years
18 from the date of the original designation.

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

23 (e)

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

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

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

33 ~~7073.8. (a) The department shall designate up to two~~
34 ~~Manufacturing Enhancement Areas requested by the governing~~
35 ~~boards of cities each of which shall meet at least the following~~
36 ~~criteria:~~

37 ~~(1) The unemployment rate in the county in which the applicant~~
38 ~~is located has been at least three times the state average from 1990~~
39 ~~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.~~

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

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

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

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

~~7073.9. Upon approval by the department of an application by a city, county, or city and county, a manufacturing enhancement area in Imperial County is expanded to the extent proposed, but in no event by more than a 200-acre site that is located in Imperial County and used for purposes of those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, to include definitive boundaries that are contiguous to the manufacturing enhancement~~

1 area. The department shall approve an application for expansion
2 of the manufacturing enhancement area if it determines that the
3 proposed additional territory meets the criteria specified in Section
4 7073.8 to the same extent as the existing territory of the
5 manufacturing area and if all of the following conditions are met:

6 (a) The governing body of each city in which the manufacturing
7 enhancement is located approves an ordinance or resolution
8 approving the proposed expansion of that area.

9 (b) The additional territory proposed to be added to the
10 manufacturing enhancement area is zoned for industrial or
11 commercial use.

12 (c) Basic infrastructure, including, but not limited to, gas, water,
13 electrical service, and sewer systems is available to the additional
14 territory proposed to be added to the manufacturing enhancement
15 area.

16 *SEC. 10. Section 7076 of the Government Code is amended to*
17 *read:*

18 7076. (a) *The department shall serve as a liaison between the*
19 *state and enterprise zone residents, businesses, workers, nonprofit*
20 *organizations, and local governments. State agencies and*
21 *departments shall affirmatively support their statutory*
22 *responsibilities under this chapter and, consistent with their*
23 *statutory duties, respond to requests made by and on the behalf of*
24 *an enterprise zone.*

25 (b) (1) The department shall provide technical assistance to the
26 enterprise zones designated pursuant to this chapter with respect
27 to all of the following activities:

28 (A) Furnish limited onsite assistance to the enterprise zones
29 when appropriate.

30 (B) Ensure that the locality has developed a method to make
31 residents, businesses, and neighborhood organizations aware of
32 the opportunities to participate in the program.

33 (C) Help the locality develop a marketing program for the
34 enterprise zone.

35 (D) Coordinate activities of other state agencies regarding the
36 enterprise zones.

37 (E) Monitor the progress of the program.

38 (F) Help businesses to participate in the program.

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

4 (3) The department may, at its discretion, undertake other
5 activities in providing management and technical assistance for
6 successful implementation of this chapter.

7 ~~(b) The applicant shall be required to begin implementation of~~
8 ~~the enterprise zone plan contained in the final application within~~
9 ~~six months after notification of final designation or the enterprise~~
10 ~~zone shall lose its designation.~~

11 (c) The department shall assess a fee of fifteen dollars (\$15) on
12 each enterprise zone and manufacturing enhancement area for each
13 application for issuance of a certificate pursuant to subdivision (j)
14 of Section 17053.47 of, subdivision (c) of Section 17053.74 of,
15 subdivision (c) of Section 23622.7 of, or subdivision (i) of Section
16 23622.8 of, the Revenue and Taxation Code. The department shall
17 collect the fee for deposit into the Enterprise Zone Fund, pursuant
18 to Section 7072.3, for the costs of administering this chapter. The
19 enterprise zone or manufacturing enhancement area administrator
20 shall collect this fee at the time an application is submitted for
21 issuance of a certificate.

22 (d) (1) (A) *The department shall establish a registration*
23 *process for businesses located in a zone that includes, but is not*
24 *limited to, the creation of a zone business registration form and*
25 *recommended outreach methods to help inform businesses of the*
26 *registration process.*

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

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

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

34 (iii) *The size of the business based on gross annual receipts for*
35 *the year prior to registration.*

36 (iv) *The total number of employees of the business and the total*
37 *number of employees of the business that work within the enterprise*
38 *zone, for the year prior to registration.*

39 (2) *Registration shall be a precondition for claiming an*
40 *enterprise zone-related tax incentive, including, but not limited*

1 to, the hiring credit, the sales and use tax credit, and the net
2 interest deduction; however, a business shall not be required to
3 register until six months following the department's establishment
4 of the registration process. Businesses shall retain a copy of the
5 registration for use in preparation of their tax return.

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

8 (e) Certificates for hiring credits shall be processed and
9 approved or denied based upon the regulations and administrative
10 memoranda in effect as of the date of the application.
11 Clarifications, interpretations, and other items contained within
12 a memorandum shall be binding upon the department, businesses,
13 enterprise zones, and all other applicable entities, as consistent
14 with state and federal law, unless the memorandum is modified or
15 repealed in writing.

16 (f) (1) (A) The department shall maintain, and post on its
17 Internet Web site, a catalog of all administrative memoranda in
18 effect that implement this chapter, including the subject matter of
19 the memoranda and the effective dates of their publication,
20 modification, or repeal, along with the text of the memoranda.

21 (B) The department shall post on its Internet Web site the
22 publication, modification, or repeal of any of those administrative
23 memoranda, within 10 business days of that publication,
24 modification, or repeal.

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

29 SEC. 11. Section 7076.1 of the Government Code is amended
30 to read:

31 7076.1. (a) The department may audit the program of any
32 jurisdiction in any designated G-TEDA at any time during the
33 duration of the designation, as appropriate. However, the
34 department shall audit each G-TEDA at least once every five years
35 from the date of designation or the operative date of this section,
36 whichever is the latest. The matters to be examined in the course
37 of an audit shall include an examination of the progress made by
38 the G-TEDA toward meeting the goals, objectives, and
39 commitments set forth in its original application and the
40 department's memorandum of understanding with the G-TEDA.

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

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

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

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

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

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

(2) (A) A G-TEDA will be determined to be passing if each jurisdiction comprising the area meets or exceeds 75 to 90 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or

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

4 (B) Any G-TEDA that is determined to be passing may appeal
5 in writing to the department for a determination of superior. Only
6 one appeal may be filed pursuant to this subparagraph with respect
7 to a determination by the department, and may be filed no later
8 than 30 days after the G-TEDA's receipt of the determination to
9 which the appeal pertains. The department shall respond in writing
10 to any appeal that is properly filed pursuant to this subparagraph
11 within 60 days of the date of that filing.

12 (3) (A) A G-TEDA will be determined to be failing if any
13 jurisdiction comprising the G-TEDA fails to meet or exceed 75
14 percent of its goals, objectives, or commitments as defined in its
15 original application, most recent audit, biennial report, and
16 memorandum of understanding with the department, and as
17 determined by the department in consultation with the G-TEDA.
18 An equivalent or similar commitment may be substituted for an
19 existing commitment of a G-TEDA if it is determined by the
20 department that an original commitment was not realistically
21 practical or is no longer relevant.

22 (B) Any G-TEDA that is determined to be failing shall enter
23 into a written agreement with the department that specifies those
24 items that the G-TEDA is required to remedy or improve. Failure
25 of the G-TEDA and the department to negotiate and enter into a
26 written agreement as so described within 60 days of the last day
27 upon which the department is required to deliver a response letter
28 pursuant to subparagraph (C) of *paragraph (4)* shall result in the
29 dedesignation of the G-TEDA on January 1 immediately following
30 the department's written notice of dedesignation to the G-TEDA.

31 A

32 (C) A written agreement entered into pursuant to this
33 ~~subparagraph~~ *paragraph* shall be for a six-month period. If, upon
34 the expiration of the agreement, the department determines that
35 the G-TEDA has not met or implemented at least 75 percent of
36 the conditions set forth in the agreement, the department shall,
37 after immediately providing written notification to each jurisdiction
38 comprising the G-TEDA that the G-TEDA is to be dedesignated;
39 ~~dedesignate~~. *Dedesignation of the G-TEDA is effective on the first*
40 *day of the month next following the date upon which the agreement*

1 expired. If, upon expiration of the agreement, the department
2 determines that the G-TEDA has met or implemented at least 75
3 percent of the conditions set forth in the agreement, the department
4 shall do either of the following:

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

8 (ii) Pursuant to written notice provided immediately to each
9 jurisdiction that comprises the G-TEDA that the G-TEDA is to be
10 dedesignated, dedesignate the G-TEDA effective on January 1
11 immediately following the date of the department's written
12 notification of dedesignation to those jurisdictions.

13 ~~Any~~

14 (D) Any business, located within any jurisdiction that comprises
15 a G-TEDA that has been dedesignated, that has elected to avail
16 itself of any state tax incentive specifically applicable to a G-TEDA
17 for any taxable or income year beginning prior to the dedesignation
18 of the G-TEDA may, to the extent the business is otherwise still
19 eligible for those incentives, continue to avail itself of those
20 incentives for a period equal to the remaining life of the G-TEDA.
21 However, any business, located within any jurisdiction that
22 comprises a G-TEDA that has been dedesignated, that has not
23 availed itself of any state tax incentive in the manner described in
24 the preceding sentence may not, after dedesignation of the
25 G-TEDA, avail itself of any state incentive specifically applicable
26 to a G-TEDA.

27 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, a
28 G-TEDA shall be determined to be failing if any jurisdiction
29 comprising the G-TEDA, in the determination of the director,
30 provides funding support in at least three of the previous five years
31 at a level that is less than 75 percent of the amount committed to
32 in the G-TEDA's memorandum of understanding with the
33 department.

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

37 (C) Any G-TEDA that is determined to be failing pursuant to
38 this paragraph may appeal in writing to the department. The appeal
39 shall be filed within 30 days of the G-TEDA's receipt of the
40 determination to which the appeal pertains. The department shall

1 respond in writing to any appeal that is properly filed within 60
2 days of the date of filing.

3 *(d) In undertaking its audit responsibilities pursuant to this*
4 *section, the department shall seek appropriate opportunities to*
5 *provide technical assistance and training to help G-TEDAs address*
6 *inadequacies identified through the audit of the program.*
7 *Assistance may include, but is not limited to, workshops, mentoring*
8 *programs, and referrals to other federal, state, and local public*
9 *and private entities.*

10 ~~(d)~~

11 *(e) (1) For purposes of this section, “dedesignation” means that*
12 *a G-TEDA is no longer a G-TEDA for purposes of either Section*
13 *7073 or 7085.*

14 *(2) Upon notification by the department of the dedesignation*
15 *of a G-TEDA and the end of the appeal period with respect to that*
16 *dedesignation, the department shall initiate an application process*
17 *for a new designation as provided in Section 7073, 7073.8, 7085,*
18 *7097, or 7114.*

19 *(f) In addition to any other oversight activities that the*
20 *department determines are appropriate and necessary, the*
21 *department shall review the progress reports submitted by a*
22 *G-TEDA pursuant to Section 7085.1 and determine whether an*
23 *audit is warranted.*

24 *SEC. 12. Section 7081 of the Government Code is amended to*
25 *read:*

26 *7081. (a) Notwithstanding any other provision of state law,*
27 *and to the extent permitted by federal law, the Employment*
28 *Development Department and the State Department of Education*
29 *shall give high priority to the training of unemployed individuals*
30 *who reside in a targeted employment area or a designated enterprise*
31 *zone. The*

32 *(b) When developing workforce development and training plans*
33 *and strategies, including, but not limited to, federal Workforce*
34 *Development Act funds, a state entity shall consider how the*
35 *G-TEDA programs could be integrated so as to maximize the*
36 *benefits to workers and businesses.*

37 *(c) The Employment Development Department shall, consistent*
38 *with its duties to assist unemployed workers who are registered*
39 *in the one-stop career centers, provide letters to unemployed*
40 *prospective employees that could be used to certify their eligibility*

1 *as a person participating in a program developed pursuant to the*
2 *federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2081 et*
3 *seq.).*

4 (d) *The department may assist localities in designating local*
5 *business, labor, and education consortia to broker activities between*
6 *the employment community and educational and training*
7 *institutions. Any available discretionary funds may be used to*
8 *assist the creation of those consortia.*

9 (e) *Local education entities that administer student work permits*
10 *shall consider how enterprise zone program hiring credits could*
11 *be used to benefit lower income students who apply for work*
12 *permits at their offices.*

13 SEC. 13. *Section 7085 of the Government Code is amended to*
14 *read:*

15 7085. (a) *Notwithstanding Section 7550.5, the department*
16 *shall submit a report to the Legislature every ~~five~~ six years*
17 *beginning January 1, 1998, that evaluates the effect of the program*
18 *on retaining and increasing employment among targeted*
19 *populations as described in subdivision (c), public and private*
20 *investment, and incomes, and on state and local tax revenues in*
21 *designated enterprise zones. The report shall include a department*
22 *review of the progress and effectiveness of each enterprise zone,*
23 *including, but not limited to, any efforts made regarding training*
24 *and placement of unemployed individuals pursuant to Section*
25 *7081. The Employment Development Department, the State*
26 *Department of Social Services, and the State Department of*
27 *Education shall, for the purposes of the report, provide the*
28 *department with existing data on unemployed individuals receiving*
29 *training. The Franchise Tax Board shall make available to the*
30 *department and the Legislature aggregate information on the dollar*
31 *value of enterprise zone tax credits that are claimed each year by*
32 *businesses pursuant to Section 7085.5. The Department of General*
33 *Services shall provide information on the use and outcomes that*
34 *the department tracks relating to the enterprise zone procurement*
35 *preference.*

36 (b) *An enterprise zone governing body shall provide information*
37 *at the request of the department as necessary for the department*
38 *to prepare the report required pursuant to subdivision (a).*

39 (c) *Targeted populations included within the report required*
40 *pursuant to subdivision (a) shall include, but not be limited to, the*

1 *disabled, disabled veterans, individuals formerly on forms of*
2 *federal and state assistance, individuals within the targeted*
3 *employment areas, and ex-offenders.*

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

6 *SEC. 14. Section 7085.1 of the Government Code is amended*
7 *to read:*

8 *7085.1. (a) The governing board of the G-TEDA shall report*
9 *to the department by October 1, 2008, and by that date every other*
10 *year thereafter, on the activities of the G-TEDA in the previous*
11 *two fiscal years and its plans for the current and following fiscal*
12 *year. The biennial report shall include—~~at least both~~ all of the*
13 *following:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (b) ~~A copy of the biennial report developed pursuant to~~
17 ~~subdivision (a) shall also be submitted to the legislative bodies of~~
18 ~~the local jurisdictions comprising the G-TEDA. The progress of~~
19 ~~the G-TEDA in meeting the goals, objectives, and commitments~~
20 ~~set forth in the original application and the memorandum of~~
21 ~~understanding with the department shall be reviewed at least~~
22 ~~biennially by these the legislative bodies, either as part of the~~
23 ~~approval of the G-TEDA's annual work plan or separately, at the~~
24 ~~discretion of the legislative body of the local jurisdictions~~
25 ~~comprising the G-TEDA.~~

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

35 (2) G-TEDAs that fail to obtain approved updated goals and
36 objectives by April 15, 2008, shall be dedesignated effective July
37 1, 2008. The Director of Housing and Community Development
38 shall provide notice of prospective dedesignation to the local
39 government no later than May 1, 2008. The director may authorize
40 up to two 60-calendar-day extensions, if the local government and

1 G-TEDA are acting in good faith and the additional time would
2 allow them to meet the requirements of this subdivision. Businesses
3 located within a G-TEDA that have been dedesignated shall
4 continue to have access to tax incentives previously authorized
5 within the G-TEDA pursuant to Section 7082.2.

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

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

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

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

19 *SEC. 15. Section 7085.5 of the Government Code is amended*
20 *to read:*

21 7085.5. (a) The Franchise Tax Board shall annually make
22 available to the department and the Legislature information, by
23 enterprise zone and by city or county, on the dollar value of the
24 enterprise zone tax credits *and other tax related incentives* that are
25 claimed each year by businesses and shall design and distribute
26 forms and instructions that will allow the following information
27 to be accessible:

28 (a)

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

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

33 (c)

34 (2) The number of businesses claiming each individual tax
35 credit.

36 ~~(d)~~

37 (3) The nature of the business claiming each individual tax
38 credit.

39 (e)

1 (4) The distribution of zone tax incentives among industry
2 groups.

3 ~~(f)~~

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

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

9 ~~(g)~~

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

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

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

19 *SEC. 17. Section 7114.2 of the Government Code is amended*
20 *to read:*

21 7114.2. (a) The department shall assess each LAMBRA a fee
22 of fifteen dollars (\$15) for each application for issuance of a
23 certificate pursuant to subdivision (c) of Section 17053.46 of the
24 Revenue and Taxation Code and subdivision (c) of Section 23646
25 of the Revenue and Taxation Code. The department shall collect
26 the fee for deposit into the Enterprise Zone Fund, pursuant to
27 Section 7072.3, for the costs of administering this chapter. The
28 LAMBRA administrator shall collect this fee at the time an
29 application is submitted for issuance of a certificate.

30 (b) The department shall adopt regulations governing the
31 imposition and collection of fees pursuant to this section and the
32 issuance of certificates pursuant to subdivision (c) of Section
33 17053.46 of the Revenue and Taxation Code and subdivision (c)
34 of Section 23646 of the Revenue and Taxation Code. The
35 regulations shall provide for a notice or invoice to fee payers as
36 to the amount and purpose of the fee. The adoption of the
37 regulations shall be deemed to be an emergency and necessary for
38 the immediate preservation of the public peace, health and safety,
39 or general welfare. Notwithstanding subdivision (e) of Section
40 11346.1, the regulations shall remain in effect for no more than

360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

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

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

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

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

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

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

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

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

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

17050. (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 before January 1, 2013, the total of all credits otherwise allowable under Sections 17053.33, 17053.45, 17053.46, 17053.70, and 17053.74, including the carryover of these credits, for the taxable year shall not reduce the "net tax," as defined in Section 17039, below the applicable amount.*

1 (b) For purposes of this section, the “applicable amount” shall
2 be equal to 50 percent of the “net tax,” as defined in Section
3 17039, within the enterprise zone, targeted tax area, or LAMBRA
4 where the credit was earned, before application of any credits.

5 (c) The amount of any credit otherwise allowable for the taxable
6 year under Sections 17053.45, 17053.46, 17053.70, and 17053.74
7 that is not allowed due to the application of this section shall
8 remain a credit carryover amount as otherwise allowed by this
9 part.

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

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

15 (f) This section shall remain in effect only until December 1,
16 2013, and as of that date is repealed.

17 SEC. 19. Section 17053.33 of the Revenue and Taxation Code
18 is amended to read:

19 17053.33. (a) For each taxable year beginning on or after
20 January 1, 1998, there shall be allowed as a credit against the “net
21 tax” (as defined in Section 17039) for the taxable year an amount
22 equal to the sales or use tax paid or incurred during the taxable
23 year by the qualified taxpayer in connection with the qualified
24 taxpayer’s purchase of qualified property.

25 (b) For purposes of this section:

26 (1) “Qualified property” means property that meets all of the
27 following requirements:

28 (A) Is any of the following:

29 (i) Machinery and machinery parts used for fabricating,
30 processing, assembling, and manufacturing.

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

33 (iii) Machinery and machinery parts used for either of the
34 following:

35 (I) Air pollution control mechanisms.

36 (II) Water pollution control mechanisms.

37 (iv) Data processing and communications equipment, such as
38 computers, computer-automated drafting systems, copy machines,
39 telephone systems, and faxes.

1 (v) Motion picture manufacturing equipment central to
2 production and post production, such as cameras, audio recorders,
3 and digital image and sound processing equipment.

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

8 (C) The qualified property is used by the qualified taxpayer
9 exclusively in a targeted tax area.

10 (D) The qualified property is purchased and placed in service
11 before the date the targeted tax area designation expires, is revoked,
12 is no longer binding, or becomes inoperative.

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

15 (i) Is engaged in a trade or business within a targeted tax area
16 designated pursuant to Chapter 12.93 (commencing with Section
17 7097) of Division 7 of Title 1 of the Government Code.

18 (ii) Is engaged in those lines of business described in Codes
19 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
20 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
21 of the Standard Industrial Classification (SIC) Manual published
22 by the United States Office of Management and Budget, 1987
23 edition.

24 (B) In the case of any pass-through entity, the determination of
25 whether a taxpayer is a qualified taxpayer under this section shall
26 be made at the entity level and any credit under this section or
27 Section 23633 shall be allowed to the pass-through entity and
28 passed through to the partners or shareholders in accordance with
29 applicable provisions of this part or Part 11 (commencing with
30 Section 23001). For purposes of this subparagraph, the term
31 “pass-through entity” means any partnership or S corporation.

32 (3) “Targeted tax area” means the area designated pursuant to
33 Chapter 12.93 (commencing with Section 7097) of Division 7 of
34 Title 1 of the Government Code.

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

39 (d) If the qualified taxpayer has purchased property upon which
40 a use tax has been paid or incurred, the credit provided by this

1 section shall be allowed only if qualified property of a comparable
2 quality and price is not timely available for purchase in this state.

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

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

14 (g) (1) The amount of the credit otherwise allowed under this
15 section and Section 17053.34, including any credit carryover from
16 prior years, that may reduce the “net tax” for the taxable year shall
17 not exceed the amount of tax that would be imposed on the
18 qualified taxpayer’s business income attributable to the targeted
19 tax area determined as if that attributable income represented all
20 of the income of the qualified taxpayer subject to tax under this
21 part.

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

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

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

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

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

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

12 (5) In the event that a credit carryover is allowable under
13 subdivision (e) for any taxable year after the targeted tax area
14 designation has expired, has been revoked, is no longer binding,
15 or has become inoperative, the targeted tax area shall be deemed
16 to remain in existence for purposes of computing the limitation
17 specified in this subdivision.

18 *(h) A taxpayer shall be required to register a business pursuant*
19 *Chapter 12.93 (commencing with Section 7097) of Division 7 of*
20 *Title 1 of the Government Code, and shall state under penalty of*
21 *perjury that the taxpayer is a registered business in one or more*
22 *targeted tax areas, as a condition of claiming a credit under this*
23 *section.*

24 ~~(h)~~
25 (i) The amendments made to this section by the act adding this
26 subdivision Chapter 323 of the Statutes of 1998 shall apply to
27 taxable years beginning on or after January 1, 1998.

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

31 SEC. 20. Section 17053.34 of the Revenue and Taxation Code
32 is amended to read:

33 17053.34. (a) For each taxable year beginning on or after
34 January 1, 1998, there shall be allowed a credit against the "net
35 tax" (as defined in Section 17039) to a qualified taxpayer who
36 employs a qualified employee in a targeted tax area during the
37 taxable year. The credit shall be equal to the sum of each of the
38 following:

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

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

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

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

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

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

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

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

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

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

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

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

39 (i) At least 90 percent of his or her services for the qualified
40 taxpayer during the taxable year are directly related to the conduct

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

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

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

8 (iv) Is any of the following:

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

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

23 ~~(III)~~

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

27 ~~(IV)~~

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

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

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

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

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

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

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

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

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

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

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

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

38 ~~(VII)~~

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

4 (aa) Federal Supplemental Security Income benefits.

5 (bb) Aid to Families with Dependent Children.

6 (cc) Food stamps.

7 (dd) State and local general assistance.

8 ~~(VIII)~~

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

13 ~~(IX)~~

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

17 ~~(X)~~

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

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

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

31 (i) Is engaged in a trade or business within a targeted tax area
32 designated pursuant to Chapter 12.93 (commencing with Section
33 7097) of Division 7 of Title 1 of the Government Code.

34 (ii) Is engaged in those lines of business described in Codes
35 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
36 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
37 of the Standard Industrial Classification (SIC) Manual published
38 by the United States Office of Management and Budget, 1987
39 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 amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified

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

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

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

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

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

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

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

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

29 (j) (1) The amount of the credit otherwise allowed under this
30 section and Section 17053.33, including any credit carryover from
31 prior years, that may reduce the “net tax” for the taxable year shall
32 not exceed the amount of tax that would be imposed on the
33 qualified taxpayer’s business income attributable to the targeted
34 tax area determined as if that attributable income represented all
35 of the income of the qualified taxpayer subject to tax under this
36 part.

37 (2) Attributable income shall be that portion of the taxpayer’s
38 California source business income that is apportioned to the
39 targeted tax area. For that purpose, the taxpayer’s business income
40 attributable to sources in this state first shall be determined in

1 accordance with Chapter 17 (commencing with Section 25101) of
2 Part 11. That business income shall be further apportioned to the
3 targeted tax area in accordance with Article 2 (commencing with
4 Section 25120) of Chapter 17 of Part 11, modified for purposes
5 of this section in accordance with paragraph (3).

6 (3) Business income shall be apportioned to the targeted tax
7 area by multiplying the total California business income of the
8 taxpayer by a fraction, the numerator of which is the property
9 factor plus the payroll factor, and the denominator of which is two.

10 For purposes of this paragraph:

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

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

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

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

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

33 *SEC. 21. Section 17053.45 of the Revenue and Taxation Code*
34 *is amended to read:*

35 17053.45. (a) For each taxable year beginning on or after
36 January 1, 1995, there shall be allowed as a credit against the "net
37 tax" (as defined by Section 17039) an amount equal to the sales
38 or use tax paid or incurred by the taxpayer in connection with the
39 purchase of qualified property to the extent that the qualified

1 property does not exceed a value of one million dollars
2 (\$1,000,000).

3 (b) For purposes of this section:

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

7 (2) "Taxpayer" means a taxpayer that conducts a trade or
8 business within a LAMBRA and, for the first two taxable years,
9 has a net increase in jobs (defined as 2,000 paid hours per employee
10 per year) of one or more employees in the LAMBRA.

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

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

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

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

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

39 (3) "Qualified property" means property that is each of the
40 following:

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

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

5 (C) Any of the following:

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

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

11 (iii) Aircraft components, including, but not limited to, engines,
12 fuel control units, hydraulic pumps, avionics, starts, wheels, and
13 tires.

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

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

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

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

31 (f) (1) The amount of credit otherwise allowed under this
32 section and Section 17053.46, including any credit carryover from
33 prior years, that may reduce the “net tax” for the taxable year shall
34 not exceed the amount of tax that would be imposed on the
35 taxpayer’s business income attributed to a LAMBRA determined
36 as if that attributable income represented all the income of the
37 taxpayer subject to tax under this part.

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

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

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

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

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

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

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

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

38 (h) If the taxpayer is allowed a credit for qualified property
39 pursuant to this section, only one credit shall be allowed to the
40 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 LAMBRAAs, 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. 22. 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) “Qualified wages” means:

(A) ~~That~~ (i) Except as modified by clause (ii), 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 qualified employees who are employed by the taxpayer who undertake manufacturing activities described in Codes 311

1 to 339, inclusive, of the North American Industry Classification
2 System published by the United States Office of Management and
3 Budget, 2007 edition, “qualified wages” means that portion of
4 hourly wages that does not exceed 202 percent of the minimum
5 wage.

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

10 (C) Wages received during the ~~60-month~~ 36-month period
11 beginning with the first day the individual commences employment
12 with the taxpayer. Reemployment in connection with any increase,
13 including a regularly occurring seasonal increase, in the trade or
14 business operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

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

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

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

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

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

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

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

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

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

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

13 ~~(iii)~~

14 (i) An economically disadvantaged individual age 16 years or
15 older.

16 ~~(iv)~~

17 (ii) A dislocated worker who meets any of the following
18 conditions:

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

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

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

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

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

(VI) 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.

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

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

~~(vi)~~

(iv) 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)~~

(v) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

~~(viii)~~

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

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

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this

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

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

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

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

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

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

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

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

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

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

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

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

(1) ~~Obtain~~ *Apply for certification, within 36 months of an employee being hired, 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 LAMBRA, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) 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 Section 7114.2 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.

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

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

(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 qualified wages giving rise to the credit.

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

(2) (A) 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 (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(B) *If a taxpayer relocated to a LAMBRA from within the state, the taxpayer shall be allowed a credit only for that number of employees that exceeds the number of employees at the previous*

1 location. The number of employees at the previous location and
2 the type of jobs undertaken shall be established by the Employment
3 Development Department. Exceptions to this subparagraph shall
4 be limited to the following:

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

9 (ii) Taxpayers that receive a bona fide offer to relocate to
10 another state.

11 (iii) Taxpayers who relocate as a result of a natural disaster,
12 civic unrest, or eminent domain proceeding.

13 (iv) Taxpayers who relocate within the same local government
14 jurisdiction.

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

27 (B) If the seasonal employment of any qualified disadvantaged
28 individual, with respect to whom qualified wages are taken into
29 account under subdivision (a) is not continued by the qualified
30 taxpayer for a period of ~~270~~ 300 days of employment during the
31 ~~60-month~~ 36-month period beginning with the day the qualified
32 disadvantaged individual commences seasonal employment with
33 the qualified taxpayer, the tax imposed by this part, for the taxable
34 year that includes the ~~60th~~ 36th month following the month in
35 which the qualified disadvantaged individual commences seasonal
36 employment with the qualified taxpayer, shall be increased by an
37 amount equal to the credit allowed under subdivision (a) for that
38 taxable year and all prior taxable years attributable to qualified
39 wages paid or incurred with respect to that qualified disadvantaged
40 individual.

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

3 (i) A termination of employment of an employee who voluntarily
4 leaves the employment of the taxpayer.

5 (ii) A termination of employment of an individual who, before
6 the close of the period referred to in subparagraph (A) of paragraph
7 (1), becomes disabled to perform the services of that employment,
8 unless that disability is removed before the close of that period
9 and the taxpayer fails to offer reemployment to that individual.

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

14 (iv) A termination of employment of an individual due to a
15 substantial reduction in the trade or business operations of the
16 taxpayer.

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

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

23 (i) A failure to continue the seasonal employment of a qualified
24 disadvantaged individual who voluntarily fails to return to the
25 seasonal employment of the qualified taxpayer.

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

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

39 (iv) A failure to continue seasonal employment of a qualified
40 disadvantaged individual due to a substantial reduction in the

1 regular seasonal trade or business operations of the qualified
2 taxpayer.

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

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

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

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

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

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

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

29 (g) The credit shall be reduced by the credit allowed under
30 Section 17053.7. The credit shall also be reduced by the federal
31 credit allowed under Section 51 of the Internal Revenue Code.

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

36 (h) In the case where the credit otherwise allowed under this
37 section exceeds the "net tax" for the taxable year, that portion of
38 the credit that exceeds the "net tax" may be carried over and added
39 to the credit, if any, in *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.

(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 (h).

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

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

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

10 *(l) A taxpayer shall be required to register a business pursuant*
11 *to the Local Agency Military Base Recovery Area Act (Chapter*
12 *12.97 (commencing with Section 7105) of Division 7 of Title 1 of*
13 *the Government Code), and shall state under penalty of perjury*
14 *that the taxpayer is a registered business in one or more LAMBRAs,*
15 *as a condition of claiming a credit under this section.*

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

19 SEC. 23. Section 17053.47 of the Revenue and Taxation Code
20 is amended to read:

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

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

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

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

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

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

37 (b) For purposes of this section:

38 (1) "Qualified wages" means:

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

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

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

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

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

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

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

37 (5) "Qualified disadvantaged individual" means an individual
38 who *was hired by a qualified taxpayer before January 1, 2011,*
39 *and who* satisfies all of the following requirements:

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

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

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

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

16 ~~(i) An individual who has been determined eligible for services~~
17 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
18 ~~1501 et seq.), or its successor.~~

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

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

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

32 (A) Is engaged in those lines of business described in Codes
33 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
34 inclusive, of the Standard Industrial Classification (SIC) Manual
35 published by the United States Office of Management and Budget,
36 1987 edition.

37 (B) At least 50 percent of the qualified taxpayer's workforce
38 hired after the designation of the manufacturing enhancement area
39 is composed of individuals who, at the time of hire, are residents

1 of the county in which the manufacturing enhancement area is
2 located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

1 *SEC. 24. Section 17053.70 of the Revenue and Taxation Code*
2 *is amended to read:*

3 17053.70. (a) There shall be allowed as a credit against the
4 “net tax” (as defined in Section 17039) for the taxable year an
5 amount equal to the sales or use tax paid or incurred during the
6 taxable year by the taxpayer in connection with the taxpayer’s
7 purchase of qualified property.

8 (b) For purposes of this section:

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

11 (2) “Qualified property” means:

12 (A) Any of the following:

13 (i) Machinery and machinery parts used for fabricating,
14 processing, assembling, and manufacturing.

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

17 (iii) Machinery and machinery parts used for either of the
18 following:

19 (I) Air pollution control mechanisms.

20 (II) Water pollution control mechanisms.

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

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

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

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

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

37 (3) “Enterprise zone” means the area designated as an enterprise
38 zone pursuant to Chapter 12.8 (commencing with Section 7070)
39 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:

(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 taxable year, and the denominator of which is the average value

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

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

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

12 *(g) A taxpayer shall be required to register a business pursuant*
13 *to the Enterprise Zone Act (Chapter 12.8 (commencing with Section*
14 *7070) of Division 7 of Title 1 of the Government Code), and shall*
15 *state under penalty of perjury that the taxpayer is a registered*
16 *business in one or more enterprise zones, as a condition of claiming*
17 *a credit under this section.*

18 ~~(g)~~

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

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

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

27 17053.74. (a) (1) There shall be allowed a credit against the
28 "net tax" (as defined in Section 17039) to a taxpayer who employs
29 a qualified employee in an enterprise zone during the taxable year.
30 ~~The~~ *For qualified employees hired by a taxpayer before January*
31 *1, 2011, the credit shall be equal to the sum of each of the*
32 *following:*

33 ~~(1)~~

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

36 ~~(2)~~

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

39 ~~(3)~~

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

~~(4)~~

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

~~(5)~~

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

(2) *For qualified employees hired by a taxpayer on or after January 1, 2011, the credit shall be equal to the sum of each of the following:*

(A) *Thirty percent of qualified wages in the first year of employment.*

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

(C) *Fifty percent of qualified wages in the third year of employment.*

(b) For purposes of this section:

(1) ~~“Qualified”~~ (A) *For qualified employees hired by a taxpayer before January 1, 2011, “qualified wages” means:*

~~(A) (i)~~

(i) ~~Except as provided in clause (ii) subclause (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)~~

(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 published by the United States Office of Management and Budget, 1987 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

~~(B)~~

(ii) 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

1 operations of the taxpayer does not constitute commencement of
2 employment for purposes of this section.

3 ~~(C)~~

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

13 (B) For qualified employees hired on or after January 1, 2011,
14 “qualified wages” means:

15 (i) (I) Except as provided in subclause (II), that portion of
16 wages paid or incurred by the taxpayer during the taxable year
17 to qualified employees that does not exceed 180 percent of the
18 minimum wage.

19 (II) Qualified employees who are employed by a taxpayer who
20 undertake manufacturing activities described in Codes 311 to 339,
21 inclusive, of the North American Industry Classification System
22 published by the United States Office of Management and Budget,
23 2007 edition, “qualified wages” means that portion of hourly
24 wages that does not exceed 202 percent of the minimum wage.

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

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

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

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

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

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

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

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

16 (iv) Is any of the following:

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

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

31 ~~(III)~~

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

35 ~~(IV)~~

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

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

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

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

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

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

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

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

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

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

30 ~~(V)~~

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

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

39 ~~(VI)~~

(V) Immediately preceding the qualified employee's commencement of employment with the 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.

~~(VI)~~

(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. *For individuals hired on or after January 1, 2011, the employee also 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.*

1 ~~(X)~~

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

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

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

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

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

22 ~~(c) The~~ (1) *For qualified employees who are hired by the*
23 *taxpayer before January 1, 2011, the taxpayer shall do both of the*
24 *following:*

25 ~~(1)~~

26 (A) Obtain from the Employment Development Department, as
27 permitted by federal law, the local county or city Job Training
28 Partnership Act administrative entity, the local county GAIN
29 federal Workforce Investment Act administrative entity, the local
30 county CalWORKs program office or social services agency, or
31 the local government administering the enterprise zone, a
32 certification which provides that a qualified employee meets the
33 eligibility requirements specified in clause (iv) of subparagraph
34 (A) of paragraph (4) of subdivision (b). The Employment
35 Development Department may provide preliminary screening and
36 referral to a certifying agency. ~~The Employment Development~~
37 ~~Department shall develop a form for this purpose~~ *businesses*
38 *located in an enterprise zone as of the department's implementation*
39 *of the intensive services activities funded through the federal*
40 *Workforce Investment Act.* The Department of Housing and

Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2)

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

(2) *For qualified employees who are hired on or after January 1, 2011, the taxpayer shall do both of the following:*

(A) *Apply for certification, within 36 months of an employee being hired, from the Employment Development Department, as permitted by federal law, the local county or city federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification which 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 businesses located in an enterprise zone as of the department's implementation of the intensive services activities funded through the federal Workforce Investment Act. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.*

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

(d) (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 23622.7, shall apply with respect to determining employment.

(2) (A) 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 (e) or (f)) for any calendar year
3 ending after that acquisition, the employment relationship between
4 a qualified employee and an employer shall not be treated as
5 terminated if the employee continues to be employed in that trade
6 or business.

7 *(B) For taxable years beginning on or after January 1, 2011,*
8 *if a taxpayer relocated to an enterprise zone from within the state,*
9 *the taxpayer shall be allowed a credit only for that number of*
10 *employees that exceeds the number of employees at the previous*
11 *location. The number of employees at the previous location and*
12 *the type of jobs undertaken shall be established by the Employment*
13 *Development Department. Exceptions to this subparagraph shall*
14 *be limited to the following:*

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

19 *(ii) Taxpayers that receive a bona fide offer to relocate to*
20 *another state.*

21 *(iii) Taxpayers who relocate as a result of a natural disaster,*
22 *civic unrest, or eminent domain proceeding.*

23 *(iv) Taxpayers who relocated within the same local government*
24 *jurisdiction.*

25 *(e) (1) (A) ~~If~~ For qualified employees who were hired before*
26 *January 1, 2011, if the employment, other than seasonal*
27 *employment, of any qualified employee, with respect to whom*
28 *qualified wages are taken into account under paragraph (1) of*
29 *subdivision (a) is terminated by the taxpayer at any time during*
30 *the first 270 days of that employment (whether or not consecutive)*
31 *or before the close of the 270th calendar day after the day in which*
32 *that employee completes 90 days of employment with the taxpayer,*
33 *the tax imposed by this part for the taxable year in which that*
34 *employment is terminated shall be increased by an amount equal*
35 *to the credit allowed under paragraph (1) of subdivision (a) for*
36 *that taxable year and all prior taxable years attributable to qualified*
37 *wages paid or incurred with respect to that employee.*

38 *(B) If the seasonal employment of any qualified employee, with*
39 *respect to whom qualified wages are taken into account under*
40 *paragraph (1) of subdivision (a) is not continued by the taxpayer*

for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under *paragraph (1) of* subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (f) (1) (A) *For qualified employees who are hired on or after*
25 *January 1, 2011, if the employment, other than seasonal*
26 *employment, of any qualified employee, with respect to whom*
27 *qualified wages are taken into account under paragraph (2) of*
28 *subdivision (a), is terminated by the taxpayer at any time during*
29 *the first 300 days of that employment (whether or not consecutive)*
30 *or before the close of the 300th calendar day after the day in which*
31 *that employee completes 90 days of employment with the taxpayer,*
32 *the tax imposed by this part for the taxable year in which that*
33 *employment is terminated shall be increased by an amount equal*
34 *to the credit allowed under paragraph (2) of subdivision (a) for*
35 *that taxable year and all prior taxable years attributable to*
36 *qualified wages paid or incurred with respect to 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 *paragraph (2) of subdivision (a) is not continued by the taxpayer*
40 *for a period of 300 days of employment during the 36-month period*

beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 36th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under paragraph (2) of subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ~~(f)~~

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

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

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

30 ~~(g)~~

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

35 ~~(h)~~

36 (i) The credit allowable under this section shall be reduced by
37 the credit allowed under Sections 17053.10, 17053.17, and
38 17053.46 claimed for the same employee. The credit shall also be
39 reduced by the federal credit allowed under Section 51 of the
40 Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for 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 ~~(i)~~ or (j) or (k).

~~(i)~~

(j) (1) 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 succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(2) Notwithstanding paragraph (1), for taxable years beginning on or after January 1, 2011, 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.

~~(j)~~

(k) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the “net 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) 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

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

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

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

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

18 ~~(k)~~

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

22 (m) *For taxable years beginning on or after January 1, 2011,*
23 *a credit shall not be allowed under this section for a taxpayer that*
24 *has been notified by the Director of Industrial Relations of a final*
25 *determination, based on the taxpayer's history of significant*
26 *employment violations, that the taxpayer is considered by the*
27 *Department of Industrial Relations as a serious, repeated, and*
28 *willful violator of state employment laws, including, but not limited*
29 *to, demonstrating a failure to successfully abate these violations.*

30 (n) *For taxable years beginning on or after January 1, 2011, a*
31 *taxpayer shall be required to register a business pursuant to the*
32 *Enterprise Zone Act (Chapter 12.8 (commencing with Section*
33 *7070) of Division 7 of Title 1 of the Government Code), and shall*
34 *state under penalty or perjury that the taxpayer is a registered*
35 *business in one or more enterprise zones, as a condition of claiming*
36 *a credit under this section.*

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

39 17235. (a) ~~There~~ (1) *For taxable years beginning on or after*
40 *January 1, 2011, and before January 1, 2013, there shall be*

1 *allowed as a deduction in an amount equal to 50 percent of the*
2 *amount of net interest received by the taxpayer in payment on*
3 *indebtedness of a person or entity engaged in the conduct of a*
4 *trade or business located in an enterprise zone.*

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

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

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

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

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

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

22 *(d) For taxable years beginning on or after January 1, 2011, a*
23 *taxpayer shall be required to register a business pursuant to the*
24 *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 deduction under this section.*

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

32 *SEC. 27. Section 17276.2 of the Revenue and Taxation Code*
33 *is amended to read:*

34 *17276.2. (a) The term "qualified taxpayer" as used in Section*
35 *17276.1 includes a person or entity engaged in the conduct of a*
36 *trade or business within an enterprise zone designated pursuant to*
37 *Chapter 12.8 (commencing with Section 7070) of Division 7 of*
38 *Title 1 of the Government Code. For purposes of this subdivision,*
39 *all of the following shall apply:*

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is 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 subdivision as follows:

(i) 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 clause:

1 (I) 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 (II) 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 (ii) If a loss carryover is allowable pursuant to this section for
13 any taxable year after the enterprise zone designation has expired,
14 the enterprise zone shall be deemed to remain in existence for
15 purposes of computing the limitation set forth in subparagraph (B)
16 and allowing a net operating loss deduction.

17 (D) "Enterprise zone expiration date" means the date the
18 enterprise zone designation expires, is no longer binding, or
19 becomes inoperative.

20 (3) The changes made to this subdivision by the act adding this
21 paragraph shall apply to taxable years beginning on or after January
22 1, 1998.

23 (b) A taxpayer who qualifies as a "qualified taxpayer" under
24 one or more sections shall, for the taxable year of the net operating
25 loss and any taxable year to which that net operating loss may be
26 carried, designate on the original return filed for each year the
27 section which applies to that taxpayer with respect to that net
28 operating loss. If the taxpayer is eligible to qualify under more
29 than one section, the designation is to be made after taking into
30 account subdivision (c).

31 (c) If a taxpayer is eligible to qualify under this section and
32 either Section 17276.4, 17276.5, or 17276.6 as a "qualified
33 taxpayer," with respect to a net operating loss in a taxable year,
34 the taxpayer shall designate which section is to apply to the
35 taxpayer.

36 (d) Notwithstanding Section 17276, the amount of the loss
37 determined under this section or Section 17276.4, 17276.5, or
38 17276.6 shall be the only net operating loss allowed to be carried
39 over from that taxable year and the designation under subdivision
40 (b) shall be included in the election under Section 17276.1.

1 (e) *This section shall remain in effect only until January 1, 2011,*
2 *and as of that date is repealed.*

3 SEC. 28. *Section 17276.5 of the Revenue and Taxation Code*
4 *is amended to read:*

5 17276.5. (a) For each taxable year beginning on or after
6 January 1, 1995, the term “qualified taxpayer” as used in Section
7 17276.1 includes a taxpayer engaged in the conduct of a trade or
8 business within a LAMBRA. For purposes of this subdivision, all
9 of the following shall apply:

10 (1) A net operating loss shall not be a net operating loss
11 carryback for any taxable year, and a net operating loss for any
12 taxable year beginning on or after the date the area in which the
13 taxpayer conducts a trade or business is designated a LAMBRA
14 shall be a net operating loss carryover to each following taxable
15 year that ends before the LAMBRA expiration date or to each of
16 the 15 taxable years following the taxable year of loss, if longer.

17 (2) “LAMBRA” means a local agency military base recovery
18 area designated in accordance with Section 7114 of the Government
19 Code.

20 (3) “Taxpayer” means a person or entity that conducts a trade
21 or business within a LAMBRA and, for the first two taxable years,
22 has a net increase in jobs (defined as 2,000 paid hours per employee
23 per year) of one or more employees in the LAMBRA and this state.
24 For purposes of this paragraph:

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

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

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

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

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

14 (4) “Net operating loss” means the loss determined under
15 Section 172 of the Internal Revenue Code, as modified by Section
16 17276.1, attributable to the taxpayer’s business activities within a
17 LAMBRA prior to the LAMBRA expiration date. The attributable
18 loss shall be determined in accordance with Chapter 17
19 (commencing with Section 25101) of Part 11, modified for
20 purposes of this section as follows:

21 (A) Loss shall be apportioned to a LAMBRA by multiplying
22 total loss from the business by a fraction, the numerator of which
23 is the property factor plus the payroll factor, and the denominator
24 of which is 2.

25 (B) “The LAMBRA” shall be substituted for “this state.”

26 (5) A net operating loss carryover shall be a deduction only with
27 respect to the taxpayer’s business income attributable to a
28 LAMBRA.

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

38 (A) Business income shall be apportioned to a LAMBRA by
39 multiplying total California business income of the taxpayer by a
40 fraction, the numerator of which is the property factor plus the

1 payroll factor, and the denominator of which is two. For purposes
2 of this clause:

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

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

14 (B) If a loss carryover is allowable pursuant to this section for
15 any taxable year after the LAMBRA designation has expired, the
16 LAMBRA shall be deemed to remain in existence for purposes of
17 computing the limitation specified in paragraph (5) and allowing
18 a net operating loss deduction.

19 (7) "LAMBRA expiration date" means the date the LAMBRA
20 designation expires, is no longer binding, or becomes inoperative
21 pursuant to Section 7110 of the Government Code.

22 (b) A taxpayer who qualifies as a "qualified taxpayer" under
23 one or more sections shall, for the taxable year of the net operating
24 loss and any taxable year to which that net operating loss may be
25 carried, designate on the original return filed for each year the
26 section that applies to that taxpayer with respect to that net
27 operating loss. If the taxpayer is eligible to qualify under more
28 than one section, the designation is to be made after taking into
29 account subdivision (c).

30 (c) If a taxpayer is eligible to qualify under this section and
31 either Section 17276.2, 17276.4, or 17276.6 as a "qualified
32 taxpayer," with respect to a net operating loss in a taxable year,
33 the taxpayer shall designate which section is to apply to the
34 taxpayer.

35 (d) Notwithstanding Section 17276, the amount of the loss
36 determined under this section or Section 17276.2, 17276.4, or
37 17276.6 shall be the only net operating loss allowed to be carried
38 over from that taxable year and the designation under subdivision
39 (b) shall be included in the election under Section 17276.1.

1 (e) This section shall apply to taxable years beginning on or
2 after January 1, 1998.

3 (f) *This section shall remain in effect only until January 1, 2011,*
4 *and as of that date is repealed.*

5 SEC. 29. Section 17276.11 is added to the Revenue and
6 Taxation Code, to read:

7 17276.11. *Notwithstanding the repeal of Sections 17276.2 and*
8 *17276.5 by the act adding this section, any remaining carryover*
9 *of a net operating loss allowed by Section 17276.2 or 17276.5*
10 *shall continue to be allowed as a net operating loss carryover to*
11 *subsequent taxable years as provided by those sections as they*
12 *read immediately prior to being repealed.*

13 SEC. 30. Section 23036.3 is added to the Revenue and Taxation
14 Code, to read:

15 23036.3. (a) *Notwithstanding any provision of this part or*
16 *Part 10.2 (commencing with Section 18401) to the contrary, for*
17 *each taxable year beginning on or after January 1, 2011, and*
18 *before January 1, 2013, the total of all credits otherwise allowable*
19 *under Sections 23612.2, 23622.7, 23633, 23645, and 23646,*
20 *including the carryover of these credits, for the taxable year shall*
21 *not reduce the “tax,” as defined in Section 23036, below the*
22 *applicable amount.*

23 (b) *For purposes of this section, the “applicable amount” shall*
24 *be equal to 50 percent of the “tax,” as defined in Section 23036,*
25 *within the enterprise zone, targeted tax area, or LAMBRA, where*
26 *the credit was earned, before application of any credits.*

27 (c) *The amount of any credit otherwise allowable for the taxable*
28 *year under Sections 23612.2, 23622.7, 23645, and 23646 that is*
29 *not allowed due to the application of this section shall remain a*
30 *credit carryover amount as otherwise allowed by this part.*

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

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

36 (f) *This section shall remain in effect only until December 1,*
37 *2013, and as of that date is repealed.*

38 SEC. 31. Section 23612.2 of the Revenue and Taxation Code
39 is amended to read:

1 23612.2. (a) There shall be allowed as a credit against the
2 “tax” (as defined by Section 23036) for the taxable year an amount
3 equal to the sales or use tax paid or incurred during the taxable
4 year by the taxpayer in connection with the taxpayer’s purchase
5 of qualified property.

6 (b) For purposes of this section:

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

9 (2) “Qualified property” means:

10 (A) Any of the following:

11 (i) Machinery and machinery parts used for fabricating,
12 processing, assembling, and manufacturing.

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

15 (iii) Machinery and machinery parts used for either of the
16 following:

17 (I) Air pollution control mechanisms.

18 (II) Water pollution control mechanisms.

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

22 (v) Motion picture manufacturing equipment central to
23 production and postproduction, including, but not limited to,
24 cameras, audio recorders, and digital image and sound processing
25 equipment.

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

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

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

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

38 (c) If the taxpayer has purchased property upon which a use tax
39 has been paid or incurred, the credit provided by this section shall

1 be allowed only if qualified property of a comparable quality and
2 price is not timely available for purchase in this state.

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

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

14 (f) (1) The amount of credit otherwise allowed under this
15 section and Section 23622.7, including any credit carryover from
16 prior years, that may reduce the “tax” for the taxable year shall
17 not exceed the amount of tax which would be imposed on the
18 taxpayer’s business income attributable to the enterprise zone
19 determined as if that attributable income represented all of the
20 income of the taxpayer subject to tax under this part.

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

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

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

~~(g)~~

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

(i) 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. 32. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) (1) There shall be allowed a credit against the “tax” (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. ~~The~~ For qualified employees who were hired by a taxpayer before January 1, 2011, the credit shall be equal to the sum of each of the following:

~~(1)~~

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

~~(2)~~

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

~~(3)~~

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

~~(4)~~

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

3 ~~(5)~~

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

6 (2) *For qualified employees who are hired on or after January*
7 *1, 2011, the credit shall be equal to the sum of each of the*
8 *following:*

9 (A) *Thirty percent of qualified wages in the first year of*
10 *employment.*

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

13 (C) *Fifty percent of qualified wages in the third year of*
14 *employment.*

15 (b) For purposes of this section:

16 (1) ~~“Qualified”~~ (A) *For qualified employees who were hired by*
17 *a taxpayer before January 1, 2011, “qualified wages” means:*

18 ~~(A) (i)~~

19 (i) ~~(I)~~ *Except as provided in clause (ii) subclause (II), that*
20 *portion of wages paid or incurred by the taxpayer during the taxable*
21 *year to qualified employees that does not exceed 150 percent of*
22 *the minimum wage.*

23 ~~(ii)~~

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

32 ~~(B)~~

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

39 ~~(C)~~

(iii) 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.

(B) For qualified employees who are hired on or after January 1, 2011, “qualified wages” means:

(i) (I) Except as provided in subclause (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 who undertake 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.

(ii) Wages received during the 36-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.

(iii) Qualified wages shall 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 36-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.

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

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

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

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

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

12 (iv) Is any of the following:

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

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

27 ~~(III)~~

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

31 ~~(IV)~~

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

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

39 (bb) Has been terminated or has received a notice of termination
40 of employment as a result of any permanent closure or any

1 substantial layoff at a plant, facility, or enterprise, including an
2 individual who has not received written notification but whose
3 employer has made a public announcement of the closure or layoff.

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

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

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

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

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

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

26 ~~(V)~~

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

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

35 ~~(VI)~~

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

~~(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). *For individuals hired on or after January 1, 2011, the employee is also 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.*

~~(X)~~

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

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

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

12 (5) "Taxpayer" means a corporation engaged in a trade or
13 business within an enterprise zone designated pursuant to Chapter
14 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
15 the Government Code.

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

19 ~~(c) The~~ (1) *For qualified employees who were hired before*
20 ~~January 1, 2011, the taxpayer shall do both of the following:~~

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

40 (2)

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

3 (2) *For qualified employees who are hired on or after January*
4 *1, 2011, the taxpayer shall do both of the following:*

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

21 (B) *Retain a copy of the certification and provide it upon request*
22 *to the Franchise Tax Board.*

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

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

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

31 (C) For purposes of this subdivision, "controlled group of
32 corporations" means "controlled group of corporations" as defined
33 in Section 1563(a) of the Internal Revenue Code, except that:

34 (i) "More than 50 percent" shall be substituted for "at least 80
35 percent" each place it appears in Section 1563(a)(1) of the Internal
36 Revenue Code.

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

(2) (A) 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 (e) or (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.

(B) *For taxable years beginning on or after January 1, 2011, if a taxpayer relocated to an enterprise zone from within the state, the taxpayer shall be allowed a credit only for that number of employees that exceeds the number of employees at the previous location. The number of employees at the previous location and the type of jobs undertaken shall be established by the Employment Development Department. Exceptions to this subparagraph shall be limited to the following:*

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

(ii) *Taxpayers that receive a bona fide offer to relocate to another state.*

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

(iv) *Taxpayers who relocate within the same local government jurisdiction.*

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under *paragraph (1) of subdivision (a)* is terminated by the 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 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 *paragraph (1) of 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 *paragraph (1) of subdivision (a)* is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under *paragraph (1) of subdivision (a)* for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 *(f) (1) (A) For qualified employees who are hired on or after*
32 *January 1, 2011, if the employment, other than seasonal*
33 *employment, of any qualified employee with respect to whom*
34 *qualified wages are taken into account under paragraph (2) of*
35 *subdivision (a), is terminated by the taxpayer at any time during*
36 *the first 300 days of that employment, whether or not consecutive,*
37 *or before the close of the 300th calendar day after the day in which*
38 *that employee completes 90 days of employment with the taxpayer,*
39 *the tax imposed by this part for the taxable year in which that*
40 *employment is terminated shall be increased by an amount equal*

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

4 (B) If the seasonal employment of any qualified employee, with
5 respect to whom qualified wages are taken into account under
6 paragraph (2) of subdivision (a) is not continued by the taxpayer
7 for a period of 300 days of employment during the 36-month period
8 beginning with the day the qualified employee commences seasonal
9 employment with the taxpayer, the tax imposed by this part, for
10 the taxable year that includes the 36th month following the month
11 in which the qualified employee commences seasonal employment
12 with the taxpayer, shall be increased by an amount equal to the
13 credit allowed under paragraph (2) of subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) By reason of a mere change in the form of conducting the
30 trade or business of the 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)~~

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

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

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

3 ~~(g)~~

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

8 ~~(h)~~

9 (i) The credit allowable under this section shall be reduced by
10 the credit allowed under Sections 23623.5, 23625, and 23646
11 claimed for the same employee. The credit shall also be reduced
12 by the federal credit allowed under Section 51 of the Internal
13 Revenue Code.

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

18 ~~(i)~~

19 (j) (1) In the case where the credit otherwise allowed under this
20 section exceeds the “tax” for the taxable year, that portion of the
21 credit that exceeds the “tax” may be carried over and added to the
22 credit, if any, in succeeding taxable years, until the credit is
23 exhausted. The credit shall be applied first to the earliest taxable
24 years possible.

25 (2) *Notwithstanding paragraph (1), for taxable years beginning*
26 *on or after January 1, 2011, in the case where the credit otherwise*
27 *allowed under this section exceeds the “tax” for the taxable year,*
28 *that portion of the credit that exceeds the “tax” may be carried*
29 *over and added to the credit, if any, in the following year, and the*
30 *succeeding 14 years if necessary, until the credit is exhausted. The*
31 *credit shall be applied first to the earliest taxable years possible.*

32 ~~(j)~~

33 (k) (1) The amount of the credit otherwise allowed under this
34 section and Section 23612.2, including any credit carryover from
35 prior years, that may reduce the “tax” for the taxable year shall
36 not exceed the amount of tax which would be imposed on the
37 taxpayer’s business income attributable to the enterprise zone
38 determined as if that attributable income represented all of the
39 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 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 years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision-(i) (j).

~~(k)~~

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

(m) For taxable years beginning on or after January 1, 2011, a credit shall not be allowed under this section for a taxpayer that has been notified by the Director of Industrial Relations of a final determination, based on the taxpayer's history of significant employment violations, that the taxpayer is considered by the Department of Industrial Relations as a serious, repeated, and willful violator of state employment laws, including, but not limited to, demonstrating a failure to successfully abate these violations.

(n) 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 credit under this section.

SEC. 33. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

(b) For purposes of this section:

(1) "Qualified wages" means:

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

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

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the

1 qualified taxpayer does not constitute commencement of
2 employment for purposes of this section.

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

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

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

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

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

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

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

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

38 (C) ~~Who is any of the following,~~ immediately preceding the
39 individual’s commencement of employment with the qualified
40 taxpayer, *was certified as eligible by the Employment Development*

1 *Department under the federal Targeted Jobs Tax Credit Program,*
2 *or its successor, whether or not this program is in effect.*

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

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

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

19 (A) Is engaged in those lines of business described in Codes
20 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
21 inclusive, of the Standard Industrial Classification (SIC) Manual
22 published by the United States Office of Management and Budget,
23 1987 edition.

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

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

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

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

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

38 (B) The credit (if any) allowable by this section with respect to
39 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.

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

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

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

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

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

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

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

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

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

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

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

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

22 SEC. 34. *Section 23633 of the Revenue and Taxation Code is*
23 *amended to read:*

24 23633. (a) For each taxable year beginning on or after January
25 1, 1998, there shall be allowed as a credit against the “tax” (as
26 defined by Section 23036) for the taxable year an amount equal
27 to the sales or use tax paid or incurred during the taxable year by
28 the qualified taxpayer in connection with the qualified taxpayer’s
29 purchase of qualified property.

30 (b) For purposes of this section:

31 (1) “Qualified property” means property that meets all of the
32 following requirements:

33 (A) Is any of the following:

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

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

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

40 (I) Air pollution control mechanisms.

1 (II) Water pollution control mechanisms.

2 (iv) Data-processing and communications equipment, such as
3 computers, computer-automated drafting systems, copy machines,
4 telephone systems, and faxes.

5 (v) Motion picture manufacturing equipment central to
6 production and post production, such as cameras, audio recorders,
7 and digital image and sound processing 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 qualified taxpayer for purposes of claiming this credit shall
11 not exceed twenty million dollars (\$20,000,000).

12 (C) The qualified property is used by the qualified taxpayer
13 exclusively in a targeted tax area.

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

17 (2) (A) “Qualified taxpayer” means a corporation that meets
18 both of the following:

19 (i) Is engaged in a trade or business within a targeted tax area
20 designated pursuant to Chapter 12.93 (commencing with Section
21 7097) of Division 7 of Title 1 of the Government Code.

22 (ii) Is engaged in those lines of business described in Codes
23 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
24 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
25 of the Standard Industrial Classification (SIC) Manual published
26 by the United States Office of Management and Budget, 1987
27 edition.

28 (B) In the case of any pass-through entity, the determination of
29 whether a taxpayer is a qualified taxpayer under this section shall
30 be made at the entity level and any credit under this section or
31 Section 17053.33 shall be allowed to the pass-through entity and
32 passed through to the partners or shareholders in accordance with
33 applicable provisions of this part or Part 10 (commencing with
34 Section 17001). For purposes of this subparagraph, the term
35 “pass-through entity” means any partnership or S corporation.

36 (3) “Targeted tax area” means the area designated pursuant to
37 Chapter 12.93 (commencing with Section 7097) of Division 7 of
38 Title 1 of the Government Code.

39 (c) If the qualified taxpayer is allowed a credit for qualified
40 property pursuant to this section, only one credit shall be allowed

1 to the taxpayer under this part with respect to that qualified
2 property.

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

7 (e) 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 the
10 credit, if any, in the following year, and *the* succeeding 14 years
11 if necessary, until the credit is exhausted. The credit shall be
12 applied first to the earliest taxable years possible.

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

18 (g) (1) The amount of credit otherwise allowed under this
19 section and Section 23634, including any credit carryover from
20 prior years, that may reduce the “tax” for the taxable year shall
21 not exceed the amount of tax that would be imposed on the
22 qualified taxpayer’s business income attributable to the targeted
23 tax area determined as if that attributable income represented all
24 of the income of the qualified taxpayer subject to tax under this
25 part.

26 (2) Attributable income shall be that portion of the taxpayer’s
27 California source business income that is apportioned to the
28 targeted tax area. 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).
31 That business income shall be further apportioned to the targeted
32 tax area in accordance with Article 2 (commencing with Section
33 25120) of Chapter 17, modified for purposes of this section in
34 accordance with paragraph (3).

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

(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 targeted tax 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 targeted tax 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 (e).

(5) In the event that a credit carryover is allowable under subdivision (e) for any taxable year after the targeted tax area designation has expired, has been revoked, is no longer binding, or has become inoperative, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(h) A taxpayer shall be required to register a business pursuant Chapter 12.93 (commencing with Section 7097) 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 targeted tax areas, as a condition of claiming a credit under this section.

~~(h)~~

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

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

SEC. 35. 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

1 employee in a targeted tax area during the taxable year. The credit
2 shall be equal to the sum of each of the following:

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

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

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

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

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

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

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

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

24 (C) Qualified wages do not include any wages paid or incurred
25 by the qualified taxpayer on or after the targeted tax area expiration
26 date. However, wages paid or incurred with respect to qualified
27 employees who are employed by the qualified taxpayer within the
28 targeted tax area within the 60-month period prior to the targeted
29 tax area expiration date shall continue to qualify for the credit
30 under this section after the targeted tax area expiration date, in
31 accordance with all provisions of this section applied as if the
32 targeted tax area designation were still 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) “Targeted tax area expiration date” means the date the
38 targeted tax area designation expires, is revoked, is no longer
39 binding, or becomes inoperative.

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

4 (i) At least 90 percent of his or her 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 targeted
7 tax area.

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

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

13 (iv) Is any of the following:

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

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

28 ~~(III)~~

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

32 ~~(IV)~~

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

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

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

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

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

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

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

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

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

28 ~~(V)~~

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

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

37 ~~(VI)~~

38 (V) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 an ex-offender. An individual shall be treated as convicted if he

1 or she was placed on probation by a state court without a finding
2 of guilt.

3 ~~(VII)~~

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

7 (aa) Federal Supplemental Security Income benefits.

8 (bb) Aid to Families with Dependent Children.

9 (cc) Food stamps.

10 (dd) State and local general assistance.

11 ~~(VIII)~~

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

16 ~~(IX)~~

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

20 ~~(X)~~

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

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

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

34 (i) Is engaged in a trade or business within a targeted tax area
35 designated pursuant to Chapter 12.93 (commencing with Section
36 7097) of Division 7 of Title 1 of the Government Code.

37 (ii) Is engaged in those lines of business described in Codes
38 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
39 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
40 of the Standard Industrial Classification (SIC) Manual published

1 by the United States Office of Management and Budget, 1987
2 edition.

3 (B) In the case of any passthrough entity, the determination of
4 whether a taxpayer is a qualified taxpayer under this section shall
5 be made at the entity level and any credit under this section or
6 Section 17053.34 shall be allowed to the passthrough entity and
7 passed through to the partners or shareholders in accordance with
8 applicable provisions of this part or Part 10 (commencing with
9 Section 17001). For purposes of this subparagraph, the term
10 “passthrough entity” means any partnership or S corporation.

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

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

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

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

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

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

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

38 (B) The credit, if any, allowable by this section to each member
39 shall be determined by reference to its proportionate share of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (iii) A failure to continue the seasonal employment of a qualified
39 employee, if it is determined that the failure to continue the
40 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 either of the following:

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

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

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

24 (g) Rules similar to the rules provided in Sections 46(e) and (h)
25 of the Internal Revenue Code shall apply to both of the following:

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

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

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

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

39 (j) (1) The amount of the credit otherwise allowed under this
40 section and Section 23633, including any credit carryover from

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

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

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

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

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

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

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

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

3 SEC. 36. *Section 23645 of the Revenue and Taxation Code is*
4 *amended to read:*

5 23645. (a) For each taxable year beginning on or after January
6 1, 1995, there shall be allowed as a credit against the “tax” (as
7 defined by Section 23036) for the taxable year an amount equal
8 to the sales or use tax paid or incurred by the taxpayer in
9 connection with the purchase of qualified property to the extent
10 that the qualified property does not exceed a value of twenty
11 million dollars (\$20,000,000).

12 (b) For purposes of this section:

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

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

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

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

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

38 (ii) The total number of months worked in the LAMBRA for
39 the taxpayer by employees that are salaried employees divided by
40 12.

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

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

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

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

(C) Any of the following:

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

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

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

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

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

(d) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit which 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.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the 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 purchase of qualified property.

(f) (1) The amount of the credit otherwise allowed under this section and Section 23646, including any credit carryovers from prior years, 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 attributable income represented all 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 shall first 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 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. 37. *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.~~

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) (i) That portion of wages paid or incurred by the employer
6 during the taxable year to qualified disadvantaged individuals or
7 qualified displaced employees that does not exceed ~~150~~ 180 percent
8 of the minimum wage.

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

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

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

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

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

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

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

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

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

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

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

16 ~~(i) An individual who has been determined eligible for services~~
17 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~
18 ~~1501 et seq.), or its successor.~~

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

23 (iii)

24 (i) An economically disadvantaged individual age 16 years or
25 older.

26 (iv)

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

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

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

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

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

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

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

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

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

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

19 ~~(v)~~

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

24 ~~(vi)~~

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

28 ~~(vii)~~

29 (v) A recipient of:

30 (I) Federal Supplemental Security Income benefits.

31 (II) Aid to Families with Dependent Children.

32 (III) Food stamps.

33 (IV) State and local general assistance.

34 ~~(viii)~~

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

37 (5) "Qualified taxpayer" means a corporation that conducts a
38 trade or business within a LAMBRA and, for the first two taxable
39 years, has a net increase in jobs (defined as 2,000 paid hours per

1 employee per year) of one or more employees as determined below
2 in the LAMBRA.

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

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

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

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

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

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

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

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

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

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

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

6 (8) "LAMBRA expiration date" means the date the LAMBRA
7 designation expires, is no longer binding, or becomes inoperative.

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

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

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

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

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

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

37 (2) For purposes of this subdivision, "controlled group of
38 corporations" has the meaning given to that term by Section
39 1563(a) of the Internal Revenue Code, except that both of the
40 following apply:

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

4 (B) The determination shall be made without regard to Section
5 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
6 Code.

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

15 (B) *If a taxpayer relocated to a LAMBRA from within the state,*
16 *the taxpayer shall be allowed a credit only for that number of*
17 *employees that exceeds the number of employees at the previous*
18 *location. The number of employees at the previous location and*
19 *the type of jobs undertaken shall be established by the Employment*
20 *Development Department. Exceptions to this subparagraph shall*
21 *be limited to the following:*

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

26 (ii) *Taxpayers that receive a bona fide offer to relocate to*
27 *another state.*

28 (iii) *Taxpayers who relocate as a result of a natural disaster,*
29 *civic unrest, or eminent domain proceeding.*

30 (iv) *Taxpayers who relocate within the same local government*
31 *jurisdiction.*

32 (e) (1) (A) If the employment of any employee, other than
33 seasonal employment, with respect to whom qualified wages are
34 taken into account under subdivision (a) is terminated by the
35 taxpayer at any time during the first ~~270~~ 300 days of that
36 employment (whether or not consecutive) or before the close of
37 the ~~270th~~ 300th calendar day after the day in which that employee
38 completes 90 days of employment with the taxpayer, the tax
39 imposed by this part for the taxable year in which that employment
40 is terminated shall be increased by an amount equal to the credit

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

4 (B) If the seasonal employment of any qualified disadvantaged
5 individual, with respect to whom qualified wages are taken into
6 account under subdivision (a) is not continued by the qualified
7 taxpayer for a period of ~~270~~ 300 days of employment during the
8 ~~60~~ 36-month period beginning with the day the qualified
9 disadvantaged individual commences seasonal employment with
10 the qualified taxpayer, the tax imposed by this part, for the taxable
11 year that includes the ~~60th~~ 36th month following the month in
12 which the qualified disadvantaged individual commences seasonal
13 employment with the qualified taxpayer, shall be increased by an
14 amount equal to the credit allowed under subdivision (a) for that
15 taxable year and all prior taxable years attributable to qualified
16 wages paid or incurred with respect to that qualified disadvantaged
17 individual.

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

20 (i) A termination of employment of an employee who voluntarily
21 leaves the employment of the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

31 (ii) A mere change in the form of conducting the trade or
32 business of the taxpayer, if the employee continues to be employed
33 in that trade or business and the taxpayer retains a substantial
34 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 (4) At the close of the second taxable year, if the taxpayer has
39 not increased the number of its employees as determined by
40 paragraph (5) of subdivision (b), then the amount of the credit

1 previously claimed shall be added to the taxpayer's tax for the
2 taxpayer's second taxable year.

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

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

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

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

21 (i) (1) The amount of credit otherwise allowed under this section
22 and Section 23645, including any prior year carryovers, that may
23 reduce the "tax" for the taxable year shall not exceed the amount
24 of tax that would be imposed on the taxpayer's business income
25 attributed to a LAMBRA determined as if that attributed income
26 represented all of the income of the taxpayer subject to tax under
27 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 LAMBRA. For that purpose, the taxpayer's business income that
31 is attributable to sources in this state first shall be determined in
32 accordance with Chapter 17 (commencing with Section 25101).
33 That business income shall be further apportioned to the LAMBRA
34 in accordance with Article 2 (commencing with Section 25120)
35 of Chapter 17, modified for purposes of this section in accordance
36 with paragraph (3).

37 (3) Income shall be apportioned to a LAMBRA by multiplying
38 the total California business income of the taxpayer by a fraction,
39 the numerator of which is the property factor plus the payroll factor,

1 and the denominator of which is two. For purposes of this
2 paragraph:

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

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

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

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

22 (k) *A credit shall not be allowed under this section to a taxpayer*
23 *that has been notified by the Director of Industrial Relations of a*
24 *final determination, based on the taxpayer's history of significant*
25 *employment violations, that the taxpayer is considered by the*
26 *Department of Industrial Relations as a serious, repeated, and*
27 *willful violator of state employment laws, including, but not limited*
28 *to, demonstrating a failure to successfully abate these violations.*

29 (l) *A taxpayer shall be required to register a business pursuant*
30 *to the Local Agency Military Base Recovery Area Act (Chapter*
31 *12.97 (commencing with Section 7105) of Division 7 of Title 1 of*
32 *the Government Code), and shall state under penalty of perjury*
33 *that the taxpayer is a registered business in one or more LAMBRAs,*
34 *as a condition of claiming a credit under this section.*

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

38 SEC. 38. *Section 24384.5 of the Revenue and Taxation Code*
39 *is amended to read:*

1 24384.5. (a) ~~There~~ (1) *For taxable years beginning on or*
2 *after January 1, 2011, and before January 1, 2013, there shall be*
3 *allowed as a deduction in an amount equal to 50 percent of the*
4 *amount of net interest received by the taxpayer in payment on*
5 *indebtedness of a person or entity engaged in the conduct of a*
6 *trade or business located in an enterprise zone.*

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

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

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

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

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

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

24 (d) *For taxable years beginning on or after January 1, 2011, a*
25 *taxpayer shall be required to register a business pursuant to the*
26 *Enterprise Zone Act (Chapter 12.8 (commencing with Section*
27 *7070) of Division 7 of Title 1 of the Government Code), and shall*
28 *state under penalty of perjury that the taxpayer has a registered*
29 *business in one or more enterprise zones, as a condition of claiming*
30 *a deduction under this section.*

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

34 SEC. 39. Section 24416.2 of the Revenue and Taxation Code
35 is amended to read:

36 24416.2. (a) The term “qualified taxpayer” as used in Section
37 24416.1 includes a corporation engaged in the conduct of a trade
38 or business within an enterprise zone designated pursuant to
39 Chapter 12.8 (commencing with Section 7070) of Division 7 of

1 Title 1 of the Government Code. For purposes of this subdivision,
2 all of the following shall apply:

3 (1) A net operating loss shall not be a net operating loss
4 carryback for any taxable year and a net operating loss for any
5 taxable year beginning on or after the date that the area in which
6 the taxpayer conducts a trade or business is designated as an
7 enterprise zone shall be a net operating loss carryover to each of
8 the 15 taxable years following the taxable year of loss.

9 (2) For purposes of this subdivision:

10 (A) "Net operating loss" means the loss determined under
11 Section 172 of the Internal Revenue Code, as modified by Section
12 24416.1, attributable to the taxpayer's business activities within
13 the enterprise zone (as defined in Chapter 12.8 (commencing with
14 Section 7070) of Division 7 of Title 1 of the Government Code)
15 prior to the enterprise zone expiration date. That attributable loss
16 shall be determined in accordance with Chapter 17 (commencing
17 with Section 25101), modified for purposes of this subdivision as
18 follows:

19 (i) Loss shall be apportioned to the enterprise zone by
20 multiplying total loss from the business by a fraction, the numerator
21 of which is the property factor plus the payroll factor, and the
22 denominator of which is two.

23 (ii) "The enterprise zone" shall be substituted for "this state."

24 (B) A net operating loss carryover shall be a deduction only
25 with respect to the taxpayer's business income attributable to the
26 enterprise zone as defined in Chapter 12.8 (commencing with
27 Section 7070) of Division 7 of Title 1 of the Government Code.

28 (C) Attributable income is that portion of the taxpayer's
29 California source business income that is apportioned to the
30 enterprise zone. For that purpose, the taxpayer's business income
31 attributable to sources in this state first shall be determined in
32 accordance with Chapter 17 (commencing with Section 25101).
33 That business income shall be further apportioned to the enterprise
34 zone in accordance with Article 2 (commencing with Section
35 25120) of Chapter 17, modified for purposes of this subdivision
36 as follows:

37 (i) Business income shall be apportioned to the enterprise zone
38 by multiplying the total California business income of the taxpayer
39 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 clause:

(I) 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 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.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone 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.

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

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

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.4, 24416.5, or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section, or Section 24416.4, 24416.5, or 24416.6 shall be the only net operating loss allowed to be carried

1 over from that taxable year and the designation under subdivision
2 (b) shall be included in the election under Section 24416.1.

3 (e) *This section shall remain in effect only until January 1, 2011,*
4 *and as of that date is repealed.*

5 SEC. 40. Section 24416.5 of the Revenue and Taxation Code
6 is amended to read:

7 24416.5. (a) For each taxable year beginning on or after
8 January 1, 1995, the term “qualified taxpayer” as used in Section
9 24416.1 includes a taxpayer engaged in the conduct of a trade or
10 business within a LAMBRA. For purposes of this subdivision, all
11 of the following shall apply:

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year and, except as provided in
14 subparagraph (B), a net operating loss for any taxable year
15 beginning on or after the date the area in which the taxpayer
16 conducts a trade or business is designated a LAMBRA shall be a
17 net operating loss carryover to each following taxable year that
18 ends before the LAMBRA expiration date or to each of the 15
19 taxable years following the taxable year of loss, if longer.

20 (2) In the case of a financial institution to which Section 585,
21 586, or 593 of the Internal Revenue Code applies, a net operating
22 loss for any taxable year beginning on or after January 1, 1984,
23 shall be a net operating loss carryover to each of the five years
24 following the taxable year of the loss. Subdivision (b) of Section
25 24416.1 shall not apply.

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

29 (4) “Taxpayer” means a bank or corporation that conducts a
30 trade or business within a LAMBRA and, for the first two taxable
31 years, has a net increase in jobs (defined as 2,000 paid hours per
32 employee per year) of one or more employees in the LAMBRA
33 and this state. For purposes of this paragraph, all of the following
34 shall apply:

35 (A) The net increase in the number of jobs shall be determined
36 by subtracting the total number of full-time employees (defined
37 as 2,000 paid hours per employee per year) the taxpayer employed
38 in this state in the taxable year prior to commencing business
39 operations in the LAMBRA from the total number of full-time
40 employees the taxpayer employed in this state during the second

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

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

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

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

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

24 (5) “Net operating loss” means the loss determined under
25 Section 172 of the Internal Revenue Code, as modified by Section
26 24416.1, attributable to the taxpayer’s business activities within a
27 LAMBRA prior to the LAMBRA expiration date. The attributable
28 loss shall be determined in accordance with Chapter 17
29 (commencing with Section 25101), modified for purposes of this
30 section as follows:

31 (A) Loss shall be apportioned to a LAMBRA by multiplying
32 total loss from the business by a fraction, the numerator of which
33 is the property factor plus the payroll factor, and the denominator
34 of which is 2.

35 (B) “The LAMBRA” shall be substituted for “this state.”

36 (6) A net operating loss carryover shall be a deduction only with
37 respect to the taxpayer’s business income attributable to a
38 LAMBRA.

39 (7) Attributable income is that portion of the taxpayer’s
40 California source business income that is apportioned to the

LAMBRA. 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 LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

(A) Business income shall be apportioned to a LAMBRA by multiplying 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 clause:

(i) 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.

(ii) 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.

(B) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (D) and allowing a net operating loss deduction.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.4, or 24416.6 as a "qualified

1 taxpayer,” with respect to a net operating loss in a taxable year,
2 the taxpayer shall designate which section is to apply to the
3 taxpayer.

4 (d) Notwithstanding Section 24416, the amount of the loss
5 determined under this section or Section 24416.2, 24416.4, or
6 24416.6 shall be the only net operating loss allowed to be carried
7 over from that taxable year and the designation under subdivision
8 (b) shall be included in the election under Section 24416.1.

9 (e) This section shall apply to taxable years beginning on and
10 after January 1, 1998.

11 (f) *This section shall remain in effect only until January 1, 2011,*
12 *and as of that date is repealed.*

13 SEC. 41. Section 24416.11 is added to the Revenue and
14 Taxation Code, to read:

15 24416.11. *Notwithstanding the repeal of Sections 24416.2 and*
16 *24416.5 by the act adding this section, any remaining carryover*
17 *of a net operating loss allowed by Section 24416.2 or 24416.5,*
18 *shall continue to be allowed as a net operating loss carryover to*
19 *subsequent taxable years as provided by those sections as they*
20 *read immediately prior to being repealed.*

21 SEC. 42. *No reimbursement is required by this act pursuant*
22 *to Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*

30 SEC. 43. *This act provides for a tax levy within the meaning*
31 *of Article IV of the Constitution and shall go into immediate effect.*

32
33
34 **All matter omitted in this version of the bill**
35 **appears in the bill as amended in the**
36 **Assembly, April 15, 2011. (JR11)**
37