

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY MAY 18, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1278

Introduced by Assembly Member Hill

February 18, 2011

An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as amended, Hill. Personal income and corporation taxes: hiring credits: enterprise zones, LAMBRAs, manufacturing enhancement areas, and targeted tax areas: relocation.

The Personal Income Tax Law and the Corporation Tax Law allow credits for hiring employees in an enterprise zone, a LAMBRA, a manufacturing enhancement area, and a targeted tax area.

This bill would limit the application of these credits, for a taxpayer that relocates to an enterprise zone, a LAMBRA, a manufacturing enhancement area, or a targeted tax area from within the state, to only ~~employees that exceed the number of employees at the previous location~~ *the qualified wages for each net increase of qualified employees, as specified, and only if the taxpayer offers each employee from the previous location or locations a written bona fide offer of employment in the new location.*

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article

XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy, ~~but its operative date would depend on its effective date.~~

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

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

- 1 SECTION 1. Section 17053.34 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17053.34. (a) For each taxable year beginning on or after
- 4 January 1, 1998, there shall be allowed a credit against the “net
- 5 tax” (as defined in Section 17039) to a qualified taxpayer who
- 6 employs a qualified employee in a targeted tax area during the
- 7 taxable year. The credit shall be equal to the sum of each of the
- 8 following:
- 9 (1) Fifty percent of qualified wages in the first year of
- 10 employment.
- 11 (2) Forty percent of qualified wages in the second year of
- 12 employment.
- 13 (3) Thirty percent of qualified wages in the third year of
- 14 employment.
- 15 (4) Twenty percent of qualified wages in the fourth year of
- 16 employment.
- 17 (5) Ten percent of qualified wages in the fifth year of
- 18 employment.
- 19 (b) For purposes of this section:
- 20 (1) “Qualified wages” means:
- 21 (A) That portion of wages paid or incurred by the qualified
- 22 taxpayer during the taxable year to qualified employees that does
- 23 not exceed 150 percent of the minimum wage.
- 24 (B) Wages received during the 60-month period beginning with
- 25 the first day the employee commences employment with the
- 26 qualified taxpayer. Reemployment in connection with any increase,
- 27 including a regularly occurring seasonal increase, in the trade or
- 28 business operations of the qualified taxpayer does not constitute
- 29 commencement of employment for purposes of this section.
- 30 (C) Qualified wages do not include any wages paid or incurred
- 31 by the qualified taxpayer on or after the targeted tax area expiration

date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

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

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

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

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

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

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

(iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

31 (ig) Is a seasonal or migrant worker who experiences chronic
32 seasonal unemployment and underemployment in the agriculture
33 industry, aggravated by continual advancements in technology and
34 mechanization.

35 (ih) Has been terminated or laid off, or has received a notice of
36 termination or layoff, as a consequence of compliance with the
37 Clean Air Act.

38 (V) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 a disabled individual who is eligible for or enrolled in, or has

1 completed a state rehabilitation plan or is a service-connected
2 disabled veteran, veteran of the Vietnam era, or veteran who is
3 recently separated from military service.

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

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

12 (ia) Federal Supplemental Security Income benefits.

13 (ib) Aid to Families with Dependent Children.

14 (ic) Food stamps.

15 (id) State and local general assistance.

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

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

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

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

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

35 (i) Is engaged in a trade or business within a targeted tax area
36 designated pursuant to Chapter 12.93 (commencing with Section
37 7097) of Division 7 of Title 1 of the Government Code.

38 (ii) Is engaged in those lines of business described in Codes
39 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
40 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,

1 of the Standard Industrial Classification (SIC) Manual published
2 by the United States Office of Management and Budget, 1987
3 edition.

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

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

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

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

19 (1) Obtain from the Employment Development Department, as
20 permitted by federal law, the local county or city Job Training
21 Partnership Act administrative entity, the local county GAIN office
22 or social services agency, or the local government administering
23 the targeted tax area, a certification that provides that a qualified
24 employee meets the eligibility requirements specified in clause
25 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
26 Employment Development Department may provide preliminary
27 screening and referral to a certifying agency. The Department of
28 Housing and Community Development shall develop regulations
29 governing the issuance of certificates pursuant to subdivision (g)
30 of Section 7097 of the Government Code, and shall develop forms
31 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 trades or businesses, which are not
36 incorporated, that are under common control shall be treated as
37 employed by a single taxpayer.

38 (B) The credit, if any, allowable by this section with respect to
39 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (j) (1) The amount of the credit otherwise allowed under this
32 section and Section 17053.33, 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 qualified taxpayer’s business income attributable to the targeted
36 tax area determined as if that attributable income represented all
37 of the income of the qualified taxpayer subject to tax under this
38 part.

39 (2) Attributable income shall be that portion of the taxpayer’s
40 California source business income that is apportioned to the

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

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

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

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

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

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

33 ~~(k) If a taxpayer relocated to a targeted tax area from within the~~
34 ~~state during any taxable year beginning on or after January 1, 2011,~~
35 ~~the taxpayer shall be allowed a credit for the taxable year only for~~
36 ~~that number of employees that exceeds the number of employees~~
37 ~~at the previous location. The number of employees at the previous~~
38 ~~location and the type of jobs undertaken shall be established by~~
39 ~~the Employment Development Department. Exceptions to this~~
40 ~~subdivision shall be limited to the following:~~

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

5 ~~(2) Employees of taxpayers that receive a bona fide offer to~~
6 ~~relocate to another state.~~

7 ~~(3) Employees, who relocate as a result of a natural disaster,~~
8 ~~civic unrest, or eminent domain proceeding.~~

9 *(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer*
10 *relocated to a targeted tax area from within the state during any*
11 *taxable year beginning on or after January 1, 2011, the qualified*
12 *taxpayer shall be allowed a credit for the taxable year only with*
13 *respect to qualified wages paid for each net increase in qualified*
14 *employees, and only if the qualified taxpayer makes each employee*
15 *at the previous location or locations a written bona fide offer of*
16 *employment at the new location.*

17 *(2) The net increase in employees of a qualified taxpayer shall*
18 *be determined as provided by this subdivision:*

19 *(A) The net increase in employees shall be determined by*
20 *subtracting from the amount determined in subparagraph (C) the*
21 *amount determined in subparagraph (B).*

22 *(B) The total number of employees employed in the state in the*
23 *preceding taxable year by the qualified taxpayer and by any trade*
24 *or business acquired by the qualified taxpayer during the current*
25 *taxable year.*

26 *(C) The total number of employees employed in the state in the*
27 *current taxable year by the qualified taxpayer and by any trade*
28 *or business acquired during the current taxable year.*

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

31 17053.46. (a) For each taxable year beginning on or after
32 January 1, 1995, there shall be allowed as a credit against the “net
33 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
34 a qualified disadvantaged individual or a qualified displaced
35 employee during the taxable year for employment in the LAMBRA.
36 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) That portion of wages paid or incurred by the employer
10 during the taxable year to qualified disadvantaged individuals or
11 qualified displaced employees that does not exceed 150 percent
12 of the minimum wage.

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

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

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

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

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

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

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

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

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

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

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

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

20 (iii) An economically disadvantaged individual age 16 years or
21 older.

22 (iv) A dislocated worker who meets any of the following
23 conditions:

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

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

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

38 (IV) Was self-employed (including farmers and ranchers) and
39 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural
2 disasters.

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

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

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

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

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

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

22 (vii) A recipient of:

23 (I) Federal Supplemental Security Income benefits.

24 (II) Aid to Families with Dependent Children.

25 (III) Food stamps.

26 (IV) State and local general assistance.

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

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

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

LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

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

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

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

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

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

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

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

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

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

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

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

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the 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) 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.

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

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

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

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

(iii) A termination of employment of an individual, 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 individual.

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

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

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

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

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

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

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

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

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

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

37 (4) At the close of the second taxable year, if the taxpayer has
38 not increased the number of its employees as determined by
39 paragraph (5) of subdivision (b), then the amount of the credit

1 previously claimed shall be added to the taxpayer's net tax for the
2 taxpayer's second taxable year.

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

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

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

10 (g) The credit shall be reduced by the credit allowed under
11 Section 17053.7. The credit shall also be reduced by the federal
12 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

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

39 (3) Income shall be apportioned to a LAMBRA by multiplying
40 the total California business income of the taxpayer by a fraction,

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

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

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

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

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

23 ~~(k) If a taxpayer relocated to a LAMBRA from within the state~~
24 ~~during any taxable year beginning on or after January 1, 2011, the~~
25 ~~taxpayer shall be allowed a credit for the taxable year only for that~~
26 ~~number of employees that exceeds the number of employees at~~
27 ~~the previous location. The number of employees at the previous~~
28 ~~location and the type of jobs undertaken shall be established by~~
29 ~~the Employment Development Department. Exceptions to this~~
30 ~~subdivision shall be limited to the following:~~

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

35 ~~(2) Employees of taxpayers that receive a bona fide offer to~~
36 ~~relocate to another state.~~

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

39 ~~(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer~~
40 ~~relocated to a LAMBRA from within the state during any taxable~~

1 year beginning on or after January 1, 2011, the qualified taxpayer
2 shall be allowed a credit for the taxable year only with respect to
3 qualified wages paid for each net increase in qualified employees,
4 and only if the qualified taxpayer makes each employee at the
5 previous location or locations a written bona fide offer of
6 employment at the new location.

7 (2) The net increase in employees of a qualified taxpayer shall
8 be determined as provided by this subdivision:

9 (A) The net increase in employees shall be determined by
10 subtracting from the amount determined in subparagraph (C) the
11 amount determined in subparagraph (B).

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

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

19 SEC. 3. 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 satisfies all of the following requirements:

39 (A) (i) At least 90 percent of whose 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
2 manufacturing enhancement area.

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

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

9 (C) Who is any of the following immediately preceding the
10 individual's commencement of employment with the qualified
11 taxpayer:

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

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

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

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

28 (A) Is engaged in those lines of business described in Codes
29 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
30 inclusive, of the Standard Industrial Classification (SIC) Manual
31 published by the United States Office of Management and Budget,
32 1987 edition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals 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 disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(k) If a taxpayer relocated to a manufacturing enhancement area~~
31 ~~from within the state during any taxable year beginning on or after~~
32 ~~January 1, 2011, the taxpayer shall be allowed a credit for the~~
33 ~~taxable year only for that number of employees that exceeds the~~
34 ~~number of employees at the previous location. The number of~~
35 ~~employees at the previous location and the type of jobs undertaken~~
36 ~~shall be established by the Employment Development Department.~~
37 ~~Exceptions to this subdivision shall be limited to the following:~~

38 ~~(1) Employees, who undertake core work activities or activities~~
39 ~~that are the primary job duties of the employee that are significantly~~

1 ~~different from those activities at the previous location, as~~
2 ~~determined by the Employment Development Department.~~

3 ~~(2) Employees of taxpayers that receive a bona fide offer to~~
4 ~~relocate to another state.~~

5 ~~(3) Employees, who relocate as a result of a natural disaster,~~
6 ~~civic unrest, or eminent domain proceeding.~~

7 *(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer*
8 *relocated to a manufacturing enhancement area from within the*
9 *state during any taxable year beginning on or after January 1,*
10 *2011, the qualified taxpayer shall be allowed a credit for the*
11 *taxable year only with respect to qualified wages paid for each*
12 *net increase in qualified employees, and only if the qualified*
13 *taxpayer makes each employee at the previous location or locations*
14 *a written bona fide offer of employment at the new location.*

15 *(2) The net increase in employees of a qualified taxpayer shall*
16 *be determined as provided by this subdivision:*

17 *(A) The net increase in employees shall be determined by*
18 *subtracting from the amount determined in subparagraph (C) the*
19 *amount determined in subparagraph (B).*

20 *(B) The total number of employees employed in the state in the*
21 *preceding taxable year by the qualified taxpayer and by any trade*
22 *or business acquired by the qualified taxpayer during the current*
23 *taxable year.*

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

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

29 17053.74. (a) There shall be allowed a credit against the “net
30 tax” (as defined in Section 17039) to a taxpayer who employs a
31 qualified employee in an enterprise zone during the taxable year.
32 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

8 (iv) Is any of the following:

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

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

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

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

29 (ia) 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 (ib) 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 (ic) 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 (id) 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 (ie) 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 (if) 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 (ig) Is a seasonal or migrant worker who experiences chronic
14 seasonal unemployment and underemployment in the agriculture
15 industry, aggravated by continual advancements in technology and
16 mechanization.

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

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

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

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

34 (ia) Federal Supplemental Security Income benefits.

35 (ib) Aid to Families with Dependent Children.

36 (ic) Food stamps.

37 (id) State and local general assistance.

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

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

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

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

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

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

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

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

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

27 (1) Obtain from the Employment Development Department, as
28 permitted by federal law, the local county or city Job Training
29 Partnership Act administrative entity, the local county GAIN office
30 or social services agency, or the local government administering
31 the enterprise zone, a certification which provides that a qualified
32 employee meets the eligibility requirements specified in clause
33 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
34 Employment Development Department may provide preliminary
35 screening and referral to a certifying agency. The Employment
36 Development Department shall develop a form for this purpose.
37 The Department of Housing and Community Development shall
38 develop regulations governing the issuance of certificates by local
39 governments pursuant to subdivision (a) of Section 7086 of the
40 Government Code.

(2) 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) 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)) 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.

(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 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 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 taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (h) The credit allowable under this section shall be reduced by
32 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
33 claimed for the same employee. The credit shall also be reduced
34 by the federal credit allowed under Section 51 of the Internal
35 Revenue Code.

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

(i) In the case where the credit otherwise allowed under this section exceeds the “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.

(j) (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 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 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 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

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

3 ~~(k) If a taxpayer relocated to an enterprise zone from within the~~
4 ~~state during any taxable year beginning on or after January 1, 2011,~~
5 ~~the taxpayer shall be allowed a credit for the taxable year only for~~
6 ~~that number of employees that exceeds the number of employees~~
7 ~~at the previous location. The number of employees at the previous~~
8 ~~location and the type of jobs undertaken shall be established by~~
9 ~~the Employment Development Department. Exceptions to this~~
10 ~~subdivision shall be limited to the following:~~

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

15 ~~(2) Employees of taxpayers that receive a bona fide offer to~~
16 ~~relocate to another state.~~

17 ~~(3) Employees, who relocate as a result of a natural disaster,~~
18 ~~civic unrest, or eminent domain proceeding.~~

19 *(k) (1) Notwithstanding subdivision (a), if a taxpayer relocated*
20 *to an enterprise zone from within the state during any taxable year*
21 *beginning on or after January 1, 2011, the taxpayer shall be*
22 *allowed a credit for the taxable year only with respect to qualified*
23 *wages paid for each net increase in qualified employees, and only*
24 *if the taxpayer makes each employee at the previous location or*
25 *locations a written bona fide offer of employment at the new*
26 *location.*

27 *(2) The net increase in employees of a taxpayer shall be*
28 *determined as provided by this subdivision:*

29 *(A) The net increase in employees shall be determined by*
30 *subtracting from the amount determined in subparagraph (C) the*
31 *amount determined in subparagraph (B).*

32 *(B) The total number of employees employed in the state in the*
33 *preceding taxable year by the taxpayer and by any trade or*
34 *business acquired by the taxpayer during the current taxable year.*

35 *(C) The total number of employees employed in the state in the*
36 *current taxable year by the taxpayer and by any trade or business*
37 *acquired during the current taxable year.*

38 *(l) The changes made to this section by the act adding this*
39 *subdivision shall apply to taxable years beginning on or after*
40 *January 1, 1997.*

1 SEC. 5. Section 23622.7 of the Revenue and Taxation Code
2 is amended to read:

3 23622.7. (a) There shall be allowed a credit against the “tax”
4 (as defined by Section 23036) to a taxpayer who employs a
5 qualified employee in an enterprise zone during the taxable year.
6 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

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

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

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

36 (C) Qualified wages do not include any wages paid or incurred
37 by the taxpayer on or after the zone expiration date. However,
38 wages paid or incurred with respect to qualified employees who
39 are employed by the taxpayer within the enterprise zone within
40 the 60-month period prior to the zone expiration date shall continue

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

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

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

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

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

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

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

20 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (VI) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was an
40 ex-offender. An individual shall be treated as convicted if he or

1 she was placed on probation by a state court without a finding of
2 guilt.

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

6 (ia) Federal Supplemental Security Income benefits.

7 (ib) Aid to Families with Dependent Children.

8 (ic) Food stamps.

9 (id) State and local general assistance.

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

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

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

21 (XI) 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 or who is eligible as a member of a targeted group
29 under the Work Opportunity Tax Credit (Section 51 of the Internal
30 Revenue Code), or its successor.

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

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

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

39 (1) Obtain from the Employment Development Department, as
40 permitted by federal law, the local county or city Job Training

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in 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.

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

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

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

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

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

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

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

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

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

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

38 (ii) By reason of a mere change in the form of conducting the
39 trade or business of the taxpayer, if the qualified employee

1 continues to be employed in that trade or business and the taxpayer
2 retains a substantial interest in that trade or business.

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

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

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

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

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

16 (h) The credit allowable under this section shall be reduced by
17 the credit allowed under Sections 23623.5, 23625, and 23646
18 claimed for the same employee. The credit shall also be reduced
19 by the federal credit allowed under Section 51 of the Internal
20 Revenue Code.

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

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

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

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

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

7 (3) Business income shall be apportioned to the enterprise zone
8 by multiplying the total California business income of the taxpayer
9 by a fraction, the numerator of which is the property factor plus
10 the payroll factor, and the denominator of which is two. For
11 purposes of this 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 enterprise zone during
15 the income 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 income year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the enterprise zone during
20 the income year for compensation, and the denominator of which
21 is the total compensation paid by the taxpayer in this state during
22 the income 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 "tax" for the taxable
26 year, as provided in subdivision (i).

27 ~~(k) If a taxpayer relocated to an enterprise zone from within the~~
28 ~~state during any taxable year beginning on or after January 1, 2011,~~
29 ~~the taxpayer shall be allowed a credit for the taxable year only for~~
30 ~~that number of employees that exceeds the number of employees~~
31 ~~at the previous location. The number of employees at the previous~~
32 ~~location and the type of jobs undertaken shall be established by~~
33 ~~the Employment Development Department. Exceptions to this~~
34 ~~subdivision shall be limited to the following:~~

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

39 ~~(2) Employees of taxpayers that receive a bona fide offer to~~
40 ~~relocate to another state.~~

1 ~~(3) Employees, who relocate as a result of a natural disaster,~~
2 ~~civic unrest, or eminent domain proceeding.~~

3 (k) (1) *Notwithstanding subdivision (a), if a taxpayer relocated*
4 *to an enterprise zone from within the state during any taxable year*
5 *beginning on or after January 1, 2011, the taxpayer shall be*
6 *allowed a credit for the taxable year only with respect to qualified*
7 *wages paid for each net increase in qualified employees, and only*
8 *if the taxpayer makes each employee at the previous location or*
9 *locations a written bona fide offer of employment at the new*
10 *location.*

11 (2) *The net increase in employees of a taxpayer shall be*
12 *determined as provided by this subdivision:*

13 (A) *The net increase in employees shall be determined by*
14 *subtracting from the amount determined in subparagraph (C) the*
15 *amount determined in subparagraph (B).*

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

19 (C) *The total number of employees employed in the state in the*
20 *current taxable year by the taxpayer and by any trade or business*
21 *acquired during the current taxable year.*

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

24 SEC. 6. Section 23622.8 of the Revenue and Taxation Code
25 is amended to read:

26 23622.8. (a) *For each taxable year beginning on or after*
27 *January 1, 1998, there shall be allowed a credit against the “tax”*
28 *(as defined in Section 23036) to a qualified taxpayer for hiring a*
29 *qualified disadvantaged individual during the taxable year for*
30 *employment in the manufacturing enhancement area. The credit*
31 *shall be equal to the sum of each of the following:*

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) "Qualified wages" means:

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

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

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

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

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

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

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

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

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

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

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

13 (C) Who is any of the following immediately preceding the
14 individual’s commencement of employment with the qualified
15 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, 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 corporation engaged in a
29 trade or business within a manufacturing enhancement area
30 designated pursuant to Section 7073.8 of the Government Code
31 and that meets 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 all corporations that are members of the
10 same controlled group of corporations shall be treated as employed
11 by a single qualified taxpayer.

12 (B) The credit (if any) allowable by this section with respect to
13 each member shall be determined by reference to its proportionate
14 share of the expenses of the qualified wages giving rise to the
15 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 income
10 year that includes the 60th month following the month in which
11 the qualified disadvantaged individual commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified disadvantaged
16 individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~(j) If a taxpayer relocated to a manufacturing enhancement area~~
33 ~~from within the state during any taxable year beginning on or after~~
34 ~~January 1, 2011, the taxpayer shall be allowed a credit for the~~
35 ~~taxable year only for that number of employees that exceeds the~~
36 ~~number of employees at the previous location. The number of~~
37 ~~employees at the previous location and the type of jobs undertaken~~
38 ~~shall be established by the Employment Development Department.~~
39 ~~Exceptions to this subdivision shall be limited to the following:~~

~~(1) 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.~~

~~(2) Employees of taxpayers that receive a bona fide offer to relocate to another state.~~

~~(3) Employees, who relocate as a result of a natural disaster, civic unrest, or eminent domain proceeding.~~

(j) (1) Notwithstanding subdivision (a), if a qualified taxpayer relocated to a manufacturing enhancement area from within the state during any taxable year beginning on or after January 1, 2011, the qualified taxpayer shall be allowed a credit for the taxable year only with respect to qualified wages paid for each net increase in qualified employees, and only if the qualified taxpayer makes each employee at the previous location or locations a written bona fide offer of employment at the new location.

(2) The net increase in employees of a taxpayer shall be determined as provided by this subdivision:

(A) The net increase in employees shall be determined by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).

(B) The total number of employees employed in the state in the preceding taxable year by the qualified taxpayer and by any trade or business acquired by the qualified taxpayer during the current taxable year.

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

SEC. 7. Section 23634 of the Revenue and Taxation Code is amended to read:

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

6 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (ia) Federal Supplemental Security Income benefits.

33 (ib) Aid to Families with Dependent Children.

34 (ic) Food stamps.

35 (id) State and local general assistance.

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

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

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

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

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

16 (i) Is engaged in a trade or business within a targeted tax area
17 designated pursuant to Chapter 12.93 (commencing with Section
18 7097) of Division 7 of Title 1 of the Government Code.

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

25 (B) In the case of any passthrough entity, the determination of
26 whether a taxpayer is a qualified taxpayer under this section shall
27 be made at the entity level and any credit under this section or
28 Section 17053.34 shall be allowed to the passthrough entity and
29 passed through to the partners or shareholders in accordance with
30 applicable provisions of this part or Part 10 (commencing with
31 Section 17001). For purposes of this subparagraph, the term
32 "passthrough entity" means any partnership or S corporation.

33 (6) "Seasonal employment" means employment by a qualified
34 taxpayer that has regular and predictable substantial reductions in
35 trade or business operations.

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

39 (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 or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

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

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

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

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

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

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

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

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

1 terminated if the employee continues to be employed in that trade
2 or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (ii) By reason of a mere change in the form of conducting the
39 trade or business of the qualified taxpayer, if the qualified
40 employee continues to be employed in that trade or business and

1 the qualified taxpayer retains a substantial interest in that trade or
2 business.

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

6 (g) Rules similar to the rules provided in Sections 46(e) and (h)
7 of the Internal Revenue Code shall apply to both of the following:

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

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

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

15 (i) 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 succeeding taxable years, until the credit is
19 exhausted. The credit shall be applied first to the earliest taxable
20 years possible.

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

29 (2) Attributable income shall be that portion of the taxpayer’s
30 California source business income that is apportioned to the
31 targeted tax area. 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).
34 That business income shall be further apportioned to the targeted
35 tax area in accordance with Article 2 (commencing with Section
36 25120) of Chapter 17, modified for purposes of this section in
37 accordance with paragraph (3).

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

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

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the 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 (h).

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

~~(k) If a taxpayer relocated to a targeted tax area from within the state during any taxable year beginning on or after January 1, 2011, the taxpayer shall be allowed a credit for the taxable year 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 subdivision shall be limited to the following:~~

~~(1) 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.~~

~~(2) Employees of taxpayers that receive a bona fide offer to relocate to another state.~~

~~(3) Employees, who relocate as a result of a natural disaster, civic unrest, or eminent domain proceeding.~~

(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer relocated to a targeted tax area from within the state during any

1 taxable year beginning on or after January 1, 2011, the qualified
2 taxpayer shall be allowed a credit for the taxable year only with
3 respect to qualified wages paid for each net increase in qualified
4 employees, and only if the qualified taxpayer makes each employee
5 at the previous location or locations a written bona fide offer of
6 employment at the new location.

7 (2) The net increase in employees of a qualified taxpayer shall
8 be determined as provided by this subdivision:

9 (A) The net increase in employees shall be determined by
10 subtracting from the amount determined in subparagraph (C) the
11 amount determined in subparagraph (B).

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

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

19 SEC. 8. Section 23646 of the Revenue and Taxation Code is
20 amended to read:

21 23646. (a) For each taxable year beginning on or after January
22 1, 1995, there shall be allowed as a credit against the "tax" (as
23 defined in Section 23036) to a qualified taxpayer for hiring a
24 qualified disadvantaged individual or a qualified displaced
25 employee during the taxable year for employment in the LAMBRA.
26 The credit 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:

39 (A) That portion of wages paid or incurred by the employer
40 during the taxable year to qualified disadvantaged individuals or

1 qualified displaced employees that does not exceed 150 percent
2 of the minimum wage.

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

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

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

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

27 (3) "LAMBRA" means a local agency military base recovery
28 area designated in accordance with the provisions of Section 7114
29 of the Government Code.

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

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

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

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

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

3 (i) An individual who has been determined eligible for services
4 under the federal Job Training Partnership Act (29 U.S.C. Sec.
5 1501 et seq.), or its successor.

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

10 (iii) An economically disadvantaged individual age 16 years or
11 older.

12 (iv) A dislocated worker who meets any of the following
13 conditions:

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

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

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

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

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

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

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

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

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

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

11 (vii) A recipient of:

12 (I) Federal Supplemental Security Income benefits.

13 (II) Aid to Families with Dependent Children.

14 (III) Food stamps.

15 (IV) State and local general assistance.

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

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

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

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

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

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

(C) In the case of a qualified taxpayer that 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.

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

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

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

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

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

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

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

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

(1) Obtain from the Employment Development Department, as permitted by federal law, the administrative entity of the local county or city for the federal Job Training Partnership Act, or its successor, the local county GAIN 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

1 Housing and Community Development shall develop regulations
2 governing the issuance of certificates pursuant to Section 7114.2
3 of the Government Code and shall develop forms for this purpose.

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

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

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

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

13 (2) For purposes of this subdivision, “controlled group of
14 corporations” has the meaning given to that term by Section
15 1563(a) of the Internal Revenue Code, except that both of the
16 following apply:

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

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

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

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

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

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) shall not apply to
18 any of the following:

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

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

26 (iii) A termination of employment of an individual, if it is
27 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 individual.

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

33 (v) A termination of employment of an individual, if that
34 individual 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 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 succeeding years, until the credit is exhausted.
19 The credit shall be applied first to the earliest taxable years
20 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) If a taxpayer relocated to a LAMBRA from within the state~~
23 ~~during any taxable year beginning on or after January 1, 2011, the~~
24 ~~taxpayer shall be allowed a credit for the taxable year only for that~~
25 ~~number of employees that exceeds the number of employees at~~
26 ~~the previous location. The number of employees at the previous~~
27 ~~location and the type of jobs undertaken shall be established by~~
28 ~~the Employment Development Department. Exceptions to this~~
29 ~~subdivision shall be limited to the following:~~

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

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

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

38 *(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer*
39 *relocated to a LAMBRA from within the state during any taxable*
40 *year beginning on or after January 1, 2011, the qualified taxpayer*

1 shall be allowed a credit for the taxable year only with respect to
2 qualified wages paid for each net increase in qualified employees,
3 and only if the qualified taxpayer makes each employee at the
4 previous location or locations a written bona fide offer of
5 employment at the new location.

6 (2) The net increase in employees of a qualified taxpayer shall
7 be determined as provided by this subdivision:

8 (A) The net increase in employees shall be determined by
9 subtracting from the amount determined in subparagraph (C) the
10 amount determined in subparagraph (B).

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

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

18 SEC. 9. This act provides for a tax levy within the meaning of
19 Article IV of the Constitution and shall go into immediate effect.