

AMENDED IN SENATE AUGUST 8, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2601

**Introduced by Assembly Members Arambula, Aghazarian, Baca,
Chan, Garcia, and Houston**

February 24, 2006

~~An act to add Title 19 (commencing with Section 99100) to the Government Code, relating to international trade and investment, and making an appropriation therefor. An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 17235, 17267.2, 17264.6, 17268, 17276.2, 17276.5, 17276.6, 23622.7, 23622.8, 23634, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6 of, and to add Sections 17053.76 and 23622.9 to, the Revenue and Taxation Code, relating to economic development.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2601, as amended, Arambula. ~~California International Trade and Investment Act. Economic Incentive Areas.~~

(1) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRA's, subject to specified criteria. The qualified taxpayer is required to obtain a certification from specified entities regarding the eligibility of the qualified employee.

This bill would revise the definition of “qualified employee” for this purpose, and would revise the provisions governing the obtaining of the certificate of eligibility.

This bill would, for taxable years beginning on or after January 1, 2007, suspend the operation of the separate provisions that authorize these credits under both of those laws and would instead, authorize one hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined, within a geographically targeted economic development area, as defined.

(2) The Personal Income Tax Law and the Corporation Tax Law allow various deductions in connection with enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRA, including a business expense deduction of 40% of the cost of specified property, and a deduction for net operating losses. In general, 100% of net operating losses are allowed to be carried forward to each of the 15 years following the year of the loss. In the case of taxpayers that also conduct business outside of an enterprise zone, Manufacturing Enhancement Area, targeted tax area, or LAMBRA, the taxpayers are required to apportion the losses to the zone or area in accordance with a specified apportionment formula.

This bill would increase the business expense deduction under these provisions to 60% of the cost of specified property. It would allow the net operating losses to be carried forward to each of the 17 years following the year of the loss and would eliminate the apportionment formula.

(3) This bill would delete various obsolete references and make conforming changes.

~~(1) Existing law provides for various international trade and investment activities in the state, and authorizes the Business, Transportation and Housing Agency to accept private sector moneys for the purpose of promoting international trade and investment, subject to specified conditions. The Governor is required to instruct the secretary to establish, on a contract basis, an international trade and investment office in Yerevan, in the Republic of Armenia, subject to the availability of funds for that purpose.~~

~~This bill would enact the California International Trade and Investment Act, to specify that the agency shall be the primary state agency responsible for domestic and international trade and investment activities in the state, subject to specified conditions. It would require the secretary to develop an international trade and~~

~~investment policy, complete a study on the potential role of the state in global markets, and develop an international trade and investment strategy for the state, subject to specified requirements. It would require the secretary to convene a statewide business partnership for international trade and investment to advise on business needs and priorities in that regard. It would require the secretary to develop an international trade and investment office strategy and authorize the establishment of international trade and investment offices by the agency, subject to specified conditions. It would appropriate \$140,000 from the General Fund to the agency for these purposes.~~

~~This bill would additionally require the Office of Planning and Research to maintain and update a full and comprehensive list of all state agreements made with foreign governments, as provided. It would require all state employees, as specified, to provide to the agency, within 30 days of traveling out of the country on official state business relating to trade or investment, or both, a memorandum with specified information regarding the trip.~~

~~(2) Existing law specifies that the Governor is the sole official source of communication between the government of this state and the government of the United States.~~

~~This bill would require the state point of contact for the United States Trade Representative, within the Office of the Governor, to perform specified duties with regard to the effect of federal trade policy on the state.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-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.

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

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

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

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

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

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

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

21 (C) Qualified wages do not include any wages paid or incurred
22 by the qualified taxpayer on or after the targeted tax area
23 expiration date. However, wages paid or incurred with respect to
24 qualified employees who are employed by the qualified taxpayer
25 within the targeted tax area within the 60-month period prior to
26 the targeted tax area expiration date shall continue to qualify for
27 the credit under this section after the targeted tax area expiration
28 date, in accordance with all provisions of this section applied as
29 if the targeted tax area 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) “Targeted tax area expiration date” means the date the
36 targeted tax area designation expires, is revoked, is no longer
37 binding, or becomes inoperative.

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

- 1 (i) At least 90 percent of his or her services for the qualified
2 taxpayer during the taxable year are directly related to the
3 conduct of the qualified taxpayer's trade or business located in a
4 targeted tax area.
- 5 (ii) Performs at least 50 percent of his or her services for the
6 qualified taxpayer during the taxable year in a targeted tax area.
- 7 (iii) Is hired by the qualified taxpayer after the date of original
8 designation of the area in which services were performed as a
9 targeted tax area.
- 10 (iv) Is any of the following:
 - 11 (I) Immediately preceding the qualified employee's
12 commencement of employment with the qualified taxpayer, was
13 a person eligible for services under the federal Job Training
14 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
15 who is receiving, or is eligible to receive, subsidized
16 employment, training, or services funded by the federal Job
17 Training Partnership Act, or its successor.
 - 18 (II) Immediately preceding the qualified employee's
19 commencement of employment with the qualified taxpayer, was
20 a person eligible to be a voluntary or mandatory registrant under
21 the Greater Avenues for Independence Act of 1985 (GAIN)
22 provided for pursuant to Article 3.2 (commencing with Section
23 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
24 Institutions Code, or its successor.
 - 25 (III) Immediately preceding the qualified employee's
26 commencement of employment with the qualified taxpayer, was
27 an economically disadvantaged individual 14 years of age or
28 older.
 - 29 (IV) Immediately preceding the qualified employee's
30 commencement of employment with the qualified taxpayer, was
31 a dislocated worker who meets any of the following:
 - 32 (aa) Has been terminated or laid off or who has received a
33 notice of termination or layoff from employment, is eligible for
34 or has exhausted entitlement to unemployment insurance
35 benefits, and is unlikely to return to his or her previous industry
36 or occupation.
 - 37 (bb) Has been terminated or has received a notice of
38 termination of employment as a result of any permanent closure
39 or any substantial layoff at a plant, facility, or enterprise,
40 including an individual who has not received written notification

1 but whose employer has made a public announcement of the
2 closure or layoff.

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

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

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

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

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

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

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

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

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

39 (aa) Federal Supplemental Security Income benefits.

40 (bb) Aid to Families with Dependent Children.

1 (cc) Food stamps.

2 (dd) State and local general assistance.

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

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

10 (X) 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
17 Independence Act of 1985 or who is eligible as a member of a
18 targeted group under the Work Opportunity Tax Credit (Section
19 51 of the Internal Revenue Code), or its successor.

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

22 (i) Is engaged in a trade or business within a targeted tax area
23 designated pursuant to Chapter 12.93 (commencing with Section
24 7097) of Division 7 of Title 1 of the Government Code.

25 (ii) Is engaged in those lines of business described in Codes
26 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
27 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
28 of the Standard Industrial Classification (SIC) Manual published
29 by the United States Office of Management and Budget, 1987
30 edition.

31 (B) In the case of any ~~pass-through~~ *passthrough* entity, the
32 determination of whether a taxpayer is a qualified taxpayer under
33 this section shall be made at the entity level and any credit under
34 this section or Section 23634 shall be allowed to the ~~pass-through~~
35 *passthrough* entity and passed through to the partners or
36 shareholders in accordance with applicable provisions of this part
37 or Part 11 (commencing with Section 23001). For purposes of
38 this subdivision, the term ~~"pass-through"~~ "*passthrough* entity"
39 means any partnership or ~~S~~ "S" corporation.

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

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

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

8 (1) Obtain from either the Employment Development
 9 Department, as permitted by federal law, or the local county or
 10 city Job Training Partnership Act administrative entity or the
 11 local county GAIN office or social services agency, as
 12 appropriate, a certification that provides that a qualified
 13 employee meets the eligibility requirements specified in clause
 14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
 15 Employment Development Department may provide preliminary
 16 screening and referral to a certifying agency. The Employment
 17 Development Department shall develop a form for this purpose.

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

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

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

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

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

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

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

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

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

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

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

36 (iii) A termination of employment of a qualified employee, if
37 it is determined that the termination was due to the misconduct
38 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
39 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
3 the qualified 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
11 qualified 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
14 qualified employee who, before the close of the period referred to
15 in subparagraph (B) of paragraph (1), becomes disabled and
16 unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the qualified taxpayer fails to offer seasonal employment to
19 that qualified employee.

20 (iii) A failure to continue the seasonal employment of a
21 qualified employee, if it is determined that the failure to continue
22 the seasonal employment was due to the misconduct (as defined
23 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
24 California 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
29 qualified employee, if that qualified employee is replaced by
30 other qualified employees so as to create a net increase in both
31 the number of seasonal employees and the hours of seasonal
32 employment.

33 (C) For purposes of paragraph (1), the employment
34 relationship between the qualified taxpayer and a qualified
35 employee shall not be treated as terminated by reason of a mere
36 change in the form of conducting the trade or business of the
37 qualified taxpayer, if the qualified employee continues to be
38 employed in that trade or business and the qualified taxpayer
39 retains a substantial interest in that trade or business.

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

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

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

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

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 “net tax” for the taxable year, that portion of
17 the credit that exceeds the “net tax” may be carried over and
18 added to the credit, if any, in succeeding taxable years, until the
19 credit is exhausted. The credit shall be applied first to the earliest
20 taxable years possible.

21 (j) (1) The amount of the credit otherwise allowed under this
22 section and Section 17053.33, including any credit carryover
23 from prior years, that may reduce the “net tax” for the taxable
24 year shall not exceed the amount of tax that would be imposed on
25 the qualified taxpayer’s business income attributable to the
26 targeted tax area determined as if that attributable income
27 represented all of the income of the qualified taxpayer subject to
28 tax under this 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
32 income attributable to sources in this state first shall be
33 determined in accordance with Chapter 17 (commencing with
34 Section 25101) of Part 11. That business income shall be further
35 apportioned to the targeted tax area in accordance with Article 2
36 (commencing with Section 25120) of Chapter 17 of Part 11,
37 modified for purposes of this section in accordance with
38 paragraph (3).

39 (3) Business income shall be apportioned to the targeted tax
40 area by multiplying the total California business income of the

1 taxpayer by a fraction, the numerator of which is the property
2 factor plus the payroll factor, and the denominator of which is
3 two. For purposes of this 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 targeted tax area during
7 the taxable year, and the denominator of which is the average
8 value of all the taxpayer's real and tangible personal property
9 owned or 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 targeted tax area
12 during the taxable year for compensation, and the denominator of
13 which is the total compensation paid by the taxpayer in this state
14 during the taxable year.

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

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

24 *(k) (1) The credit authorized by this section shall not be*
25 *applicable on or after January 1, 2007.*

26 *(2) On or after January 1, 2007, taxpayers that would*
27 *otherwise be eligible to claim a credit authorized by this section,*
28 *may claim a credit for these expenses under Section 17053.76.*

29 *(3) Notwithstanding this subdivision, the provisions of*
30 *subdivision (d) of Section 17039 shall apply with respect to any*
31 *remaining carryover of the credit previously authorized by this*
32 *section.*

33 *SEC. 2. Section 17053.46 of the Revenue and Taxation Code*
34 *is amended to read:*

35 17053.46. (a) For each taxable year beginning on or after
36 January 1, 1995, there shall be allowed as a credit against the
37 "net tax" (as defined in Section 17039) to a qualified taxpayer for
38 hiring a qualified disadvantaged individual or a qualified
39 displaced employee during the taxable year for employment in

1 the LAMBRA. The credit shall be equal to the sum of each of the
2 following:

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

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

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

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

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

13 (b) For purposes of this section:

14 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (iii) An economically disadvantaged individual age 16 years or
26 older.

27 (iv) A dislocated worker who meets any of the following
28 conditions:

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

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

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

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

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

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

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

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

22 (v) An individual who is enrolled in or has completed a state
23 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) An ex-offender. An individual shall be treated as
27 convicted if he or she was placed on probation by a state court
28 without a finding of guilty.

29 (vii) A recipient of:

30 (I) Federal Supplemental Security Income benefits.

31 (II) Aid to Families with Dependent Children.

32 (III) Food stamps.

33 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (1) Obtain from either the Employment Development
11 Department, as permitted by federal law, the local county or city
12 Job Training Partnership Act administrative entity, the local
13 county GAIN office, or social services agency, as appropriate, a
14 certification that provides that a qualified disadvantaged
15 individual or qualified displaced employee meets the eligibility
16 requirements specified in subparagraph (C) of paragraph (4) of
17 subdivision (b) or subparagraph (A) of paragraph (6) of
18 subdivision (b). The Employment Development Department may
19 provide preliminary screening and referral to a certifying agency.
20 The Employment Development Department shall develop a form
21 for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (1) The qualified wages for any taxable year shall be
17 apportioned between the estate or trust and the beneficiaries on
18 the basis of the 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 (g) The credit shall be reduced by the credit allowed under
23 Section 17053.7. The credit shall also be reduced by the federal
24 credit allowed under Section 51 of the Internal Revenue Code.

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

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

35 (i) (1) The amount of credit otherwise allowed under this
36 section and Section 17053.45, including prior year credit
37 carryovers, that may reduce the "net tax" for the taxable year
38 shall not exceed the amount of tax that would be imposed on the
39 taxpayer's business income attributed to a LAMBRA determined

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

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

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

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

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

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

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

36 (k) (1) *The credit authorized by this section shall not be*
37 *applicable on or after January 1, 2007.*

38 (2) *On or after January 1, 2007, taxpayers that would*
39 *otherwise be eligible to claim a credit authorized by this section,*
40 *may claim a credit for these expenses under Section 17053.76.*

1 (3) Notwithstanding this subdivision, the provisions of
 2 subdivision (d) of Section 17039 shall apply with respect to any
 3 remaining carryover of the credit previously authorized by this
 4 section.

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

7 17053.47. (a) For each taxable year beginning on or after
 8 January 1, 1998, there shall be allowed a credit against the “net
 9 tax” (as defined in Section 17039) to a qualified taxpayer for
 10 hiring a qualified disadvantaged individual during the taxable
 11 year for employment in the Manufacturing Enhancement Area.
 12 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

23 (b) For purposes of this section:

24 (1) “Qualified wages” means:

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

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

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

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

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

17 (3) “Manufacturing Enhancement Area” means an area
18 designated pursuant to Section 7073.8 of the Government Code
19 according to the procedures of Chapter 12.8 (commencing with
20 Section 7070) of Division 7 of Title 1 of the Government Code.

21 (4) “Manufacturing Enhancement Area expiration date” means
22 the date the Manufacturing Enhancement Area designation
23 expires, is no longer binding, or becomes inoperative.

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

26 (A) (i) At least 90 percent of whose services for the qualified
27 taxpayer during the taxable year are directly related to the
28 conduct of the qualified taxpayer’s trade or business located in a
29 Manufacturing Enhancement Area.

30 (ii) Who performs at least 50 percent of his or her services for
31 the qualified taxpayer during the taxable year in the
32 Manufacturing Enhancement Area.

33 (B) Who is hired by the qualified taxpayer after the
34 designation of the area as a Manufacturing Enhancement Area in
35 which the individual’s services were primarily performed.

36 (C) Who is any of the following immediately preceding the
37 individual’s commencement of employment with the qualified
38 taxpayer:

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

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

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

13 (6) “Qualified taxpayer” means any taxpayer engaged in a
14 trade or business within a Manufacturing Enhancement Area
15 designated pursuant to Section 7073.8 of the Government Code
16 and who meets both of the following requirements:

17 (A) Is engaged in those lines of business described in Codes
18 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
19 inclusive, of the Standard Industrial Classification (SIC) Manual
20 published by the United States Office of Management and
21 Budget, 1987 edition.

22 (B) At least 50 percent of the qualified taxpayer’s workforce
23 hired after the designation of the Manufacturing Enhancement
24 Area is composed of individuals who, at the time of hire, are
25 residents of the county in which the Manufacturing Enhancement
26 Area is located.

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

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

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

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

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

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

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

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

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

- 1 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
2 any of the following:
- 3 (i) A termination of employment of a qualified disadvantaged
4 individual who voluntarily leaves the employment of the
5 qualified taxpayer.
 - 6 (ii) A termination of employment of a qualified disadvantaged
7 individual who, before the close of the period referred to in
8 subparagraph (A) of paragraph (1), becomes disabled to perform
9 the services of that employment, unless that disability is removed
10 before the close of that period and the taxpayer fails to offer
11 reemployment to that individual.
 - 12 (iii) A termination of employment of a qualified disadvantaged
13 individual, if it is determined that the termination was due to the
14 misconduct (as defined in Sections 1256-30 to 1256-43,
15 inclusive, of Title 22 of the California Code of Regulations) of
16 that individual.
 - 17 (iv) A termination of employment of a qualified disadvantaged
18 individual due to a substantial reduction in the trade or business
19 operations of the qualified taxpayer.
 - 20 (v) A termination of employment of a qualified disadvantaged
21 individual, if that individual is replaced by other qualified
22 disadvantaged individuals so as to create a net increase in both
23 the number of employees and the hours of employment.
- 24 (B) Subparagraph (B) of paragraph (1) shall not apply to any
25 of the following:
- 26 (i) A failure to continue the seasonal employment of a
27 qualified disadvantaged individual who voluntarily fails to return
28 to the seasonal employment of the qualified taxpayer.
 - 29 (ii) A failure to continue the seasonal employment of a
30 qualified disadvantaged individual who, before the close of the
31 period referred to in subparagraph (B) of paragraph (1), becomes
32 disabled and unable to perform the services of that seasonal
33 employment, unless that disability is removed before the close of
34 that period and the qualified taxpayer fails to offer seasonal
35 employment to that qualified disadvantaged individual.
 - 36 (iii) A failure to continue the seasonal employment of a
37 qualified disadvantaged individual, if it is determined that the
38 failure to continue the seasonal employment was due to the
39 misconduct (as defined in Sections 1256-30 to 1256-43,

1 inclusive, of Title 22 of the California Code of Regulations) of
2 that qualified disadvantaged individual.

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

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

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

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

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

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

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

32 (f) The credit shall be reduced by the credit allowed under
33 Section 17053.7. The credit shall also be reduced by the federal
34 credit allowed under Section 51 of the Internal Revenue Code.

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

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

7 (h) (1) The amount of credit otherwise allowed under this
8 section, including prior year credit carryovers, that may reduce
9 the “net tax” for the taxable year shall not exceed the amount of
10 tax that would be imposed on the qualified taxpayer’s business
11 income attributed to a Manufacturing Enhancement Area
12 determined as if that attributed income represented all of the net
13 income of the qualified taxpayer subject to tax under this part.

14 (2) Attributable income shall be that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 Manufacturing Enhancement Area. For that purpose, the
17 taxpayer’s business income that is attributable to sources in this
18 state first shall be determined in accordance with Chapter 17
19 (commencing with Section 25101) of Part 11. That business
20 income shall be further apportioned to the Manufacturing
21 Enhancement Area in accordance with Article 2 (commencing
22 with Section 25120) of Chapter 17 of Part 11, modified for
23 purposes of this section in accordance with paragraph (3).

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

29 (A) The property factor is a fraction, the numerator of which is
30 the average value of the taxpayer’s real and tangible personal
31 property owned or rented and used in the Manufacturing
32 Enhancement Area during the taxable year, and the denominator
33 of which is the average value of all the taxpayer’s real and
34 tangible personal property owned or rented and used in this state
35 during the taxable year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the Manufacturing
38 Enhancement Area during the taxable year for compensation, and
39 the denominator of which is the total compensation paid by the
40 taxpayer in this state during the taxable year.

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

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

9 (j) (1) *The credit authorized by this section shall not be*
10 *applicable on or after January 1, 2007.*

11 (2) *On or after January 1, 2007, taxpayers that would*
12 *otherwise be eligible to claim a credit authorized by this section,*
13 *may claim a credit for these expenses under Section 17053.76.*

14 (3) *Notwithstanding this subdivision, the provisions of*
15 *subdivision (d) of Section 17039 shall apply with respect to any*
16 *remaining carryover of the credit previously authorized by this*
17 *section.*

18 *SEC. 4. Section 17053.74 of the Revenue and Taxation Code*
19 *is amended to read:*

20 17053.74. (a) There shall be allowed a credit against the “net
21 tax” (as defined in Section 17039) to a taxpayer who employs a
22 qualified employee in an enterprise zone during the taxable year.
23 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

34 (b) For purposes of this section:

35 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

1 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (aa) Federal Supplemental Security Income benefits.

31 (bb) Aid to Families with Dependent Children.

32 (cc) Food stamps.

33 (dd) State and local general assistance.

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

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

1 of a targeted employment area, as defined in Section 7072 of the
2 Government Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (j) (1) The amount of the credit otherwise allowed under this
8 section and Section 17053.70, including any credit carryover
9 from prior years, that may reduce the “net tax” for the taxable
10 year shall not exceed the amount of tax which would be imposed
11 on the taxpayer’s business income attributable to the enterprise
12 zone determined as if that attributable income represented all of
13 the income of the taxpayer subject to tax under this part.

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

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

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

34 (B) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the enterprise zone
36 during the taxable year for compensation, and the denominator of
37 which is the total compensation paid by the taxpayer in this state
38 during the taxable year.

39 (4) The portion of any credit remaining, if any, after
40 application of this subdivision, shall be carried over to

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

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

6 (l) (1) *The credit authorized by this section shall not be*
7 *applicable on or after January 1, 2007.*

8 (2) *On or after January 1, 2007, taxpayers that would*
9 *otherwise be eligible to claim a credit authorized by this section,*
10 *may claim a credit for these expenses under Section 17053.76.*

11 (3) *Notwithstanding this subdivision, the provisions of*
12 *subdivision (d) of Section 17039 shall apply with respect to any*
13 *remaining carryover of the credit previously authorized by this*
14 *section.*

15 *SEC. 5. Section 17053.76 is added to the Revenue and*
16 *Taxation Code, to read:*

17 *17053.76. (a) For each taxable year beginning on or after*
18 *January 1, 2007, there shall be allowed a credit against the “net*
19 *tax” (as defined in Section 17039) to a taxpayer who employs a*
20 *qualified employee in a geographically targeted economic*
21 *development area during the taxable year. The credit shall be*
22 *equal to the sum of each of the following:*

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

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

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

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

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

33 (b) *For purposes of this section:*

34 (1) *“Geographically targeted economic development area”*
35 *means any of the following:*

36 (A) *An enterprise zone designated as an enterprise zone*
37 *pursuant to Chapter 12.8 (commencing with Section 7070) of*
38 *Division 7 of Title 1 of the Government Code.*

1 (B) A local agency military base recovery area designated as
2 a local agency military base recovery area pursuant to Chapter
3 12.97 (commencing with Section 7105).

4 (C) A targeted tax area designated as a targeted tax area
5 pursuant to Chapter 12.93 (commencing with Section 7097).

6 (D) A manufacturing enhancement area designated as a
7 manufacturing enhancement area pursuant to Chapter 12.8
8 (commencing with Section 7073.8).

9 (2) “Geographically targeted economic development area
10 expiration date” means the date the geographically targeted
11 economic development area designation expires, is no longer
12 binding, or becomes inoperative.

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

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

19 (i) At least 90 percent of whose services for the taxpayer
20 during the taxable year are directly related to the conduct of the
21 taxpayer’s trade or business located in a geographically targeted
22 economic development area.

23 (ii) Performs at least 50 percent of his or her services for the
24 taxpayer during the taxable year in a geographically targeted
25 economic development area.

26 (iii) Is hired by the taxpayer after the date of original
27 designation of the area in which services were performed as a
28 geographically targeted economic development area.

29 (iv) Is any of the following, as documented by the
30 geographically targeted economic development area
31 coordinator:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a person
34 enrolled and documented in the California Job Training
35 Automation System by an authorized WIA representative under
36 the federal Workforce Investment Act (29 U.S.C. Sec. 720 et
37 seq.), or its successor.

38 (II) Immediately preceding the qualified employee’s
39 commencement of employment with the taxpayer, was a person
40 receiving benefits under the California Work Opportunity and

1 *Responsibility to Kids program pursuant to Article 3.2*
2 *(commencing with Section 11200) of Chapter 2 of Part 3 of*
3 *Division 9 of the Welfare and Institutions Code, or its successor.*

4 *(III) Immediately preceding the qualified employee's*
5 *commencement of employment with the taxpayer, was an*
6 *economically disadvantaged individual 14 years of age or older.*
7 *For purposes of this section, "economically disadvantaged*
8 *individual" means an individual who meets the definition of that*
9 *term under the Workforce Investment Act, or its successor.*

10 *(IV) Immediately preceding the qualified employee's*
11 *commencement of employment with the taxpayer, was a*
12 *dislocated worker. For purposes of this section, a "dislocated*
13 *worker" means an individual who meets the definition of that*
14 *term under the Workforce Investment Act, or its successor.*

15 *(V) Immediately preceding the qualified employee's*
16 *commencement of employment with the taxpayer, was a disabled*
17 *individual who is eligible for or enrolled in, or has completed a*
18 *state rehabilitation plan.*

19 *(VI) Is a service-connected disabled veteran, veteran of the*
20 *Vietnam era, an individual who served in the active military,*
21 *naval, or air service, and who was discharged or released from*
22 *that service under conditions other than dishonorable, or any*
23 *veteran who was discharged or released in the last 48 months*
24 *from active military, naval, or an air service.*

25 *(VII) Has a prior felony conviction. An individual shall be*
26 *treated as convicted if he or she was placed on probation by a*
27 *state court without a finding of guilt.*

28 *(VIII) Immediately preceding the qualified employee's*
29 *commencement of employment with the taxpayer, was a person*
30 *receiving any of the following:*

31 *(aa) Federal Supplemental Security Income benefits.*

32 *(bb) Temporary Assistance for Needy Families.*

33 *(cc) Food stamps.*

34 *(dd) State and local general assistance.*

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

39 *(X) Immediately preceding the qualified employee's*
40 *commencement of employment with the taxpayer, was a resident*

1 of a targeted employment area, as defined in Section 7072 of the
2 Government Code.

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

7 (XII) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a
9 "qualified former foster care recipient," which means an
10 individual who is certified by the local designated agency to have
11 met both the following:

12 (aa) Having attained age 17 but not age 25 on the hiring date.

13 (bb) Having, before attaining the age of 18, been either a
14 recipient of foster care maintenance payments under a state plan
15 approved under Part E of Title IV of the Social Security Act (42
16 U.S.C. Sec. 301), or in foster care under the responsibility of a
17 state.

18 (B) Priority for employment shall be provided to an individual
19 who is enrolled in a qualified program under the federal
20 Workforce Investment Act, or its successor, or the California
21 Work Opportunity and Responsibility to Kids program, or its
22 successor, or who is eligible as a member of a targeted group
23 under the Work Opportunity Tax Credit (Section 51 of the
24 Internal Revenue Code), or its successor.

25 (5) "Qualified wages" means:

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

30 (ii) For up to 1,350 qualified employees who are employed by
31 the taxpayer in the Long Beach Enterprise Zone in aircraft
32 manufacturing activities described in Codes 3721 to 3728,
33 inclusive, and Code 3812 of the Standard Industrial
34 Classification (SIC) Manual published by the United States
35 Office of Management and Budget, 1987 edition, "qualified
36 wages" means that portion of hourly wages that does not exceed
37 202 percent of the minimum wage.

38 (B) Wages received during the 60-month period beginning
39 with the first day the employee commences employment with the
40 taxpayer. Reemployment in connection with any increase,

1 including a regularly occurring seasonal increase, in the trade
2 or business operations of the taxpayer does not constitute
3 commencement of employment for purposes of this section.

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

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

19 (7) “Taxpayer” means a person or entity engaged in a trade
20 or business within a geographically targeted economic
21 development area.

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

23 (1) Obtain from the geographically targeted economic
24 development area coordinator designated by the local
25 jurisdiction in which the employee is employed or, if serving that
26 geographically targeted economic development area, the
27 Employment Development Department, as permitted by federal
28 law, the local county or city Workforce Investment Act (or its
29 successor) administrative entity, or the local county CalWORKs
30 office or social services agency, or its successors, a certification
31 which provides that a qualified employee meets the eligibility
32 requirements specified in clause (iv) of subparagraph (A) of
33 paragraph (4) of subdivision (b). The Employment Development
34 Department may provide preliminary screening and referral to a
35 certifying agency. The Employment Development Department
36 shall develop a form for this purpose. The Department of
37 Housing and Community Development shall develop regulations
38 governing the issuance of certificates by local governments
39 pursuant to subdivision (a) of Section 7086 of the Government
40 Code. Applications for this certification shall be submitted to the

1 certifying agency within 24 months of the commencement date of
2 employment with the taxpayer. The certifying agency shall not
3 issue a certification when the employer or the employer's agent
4 is the second signatory on the applicant's statement for
5 establishing eligibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 *(g) (1) The credit allowable under this section shall be*
37 *reduced by the credit allowed under Sections 17053.10 and*
38 *17053.17 claimed for the same employee. The credit shall also be*
39 *reduced by the federal credit allowed under Section 51 of the*
40 *Internal Revenue Code.*

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

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

11 (i) (1) The amount of the credit otherwise allowed under this
12 section and Section 17053.70, including any credit carryover
13 from prior years, that may reduce the “net tax” for the taxable
14 year shall not exceed the amount of tax which would be imposed
15 on the taxpayer’s business income attributable to the
16 geographically targeted economic development area determined
17 as if that attributable income represented all of the income of the
18 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 geographically targeted economic development area. For that
22 purpose, the taxpayer’s business income attributable to sources
23 in this state first shall be determined in accordance with Chapter
24 17 (commencing with Section 25101) of Part 11. That business
25 income shall be further apportioned to the geographically
26 targeted economic development area in accordance with Article
27 2 (commencing with Section 25120) of Chapter 17 of Part 11,
28 modified for purposes of this section in accordance with
29 paragraph (3).

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

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

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

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

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

13 *SEC. 6. Section 17235 of the Revenue and Taxation Code is*
14 *amended to read:*

15 17235. (a) There shall be allowed as a deduction the amount
16 of net interest received by the taxpayer in payment on
17 indebtedness of a person or entity engaged in the conduct of a
18 trade or business located in an enterprise zone.

19 (b) No deduction shall be allowed under this section unless at
20 the time the indebtedness is incurred each of the following
21 requirements are met:

22 (1) The trade or business *qualifying the lender for the*
23 *deduction is physically located—solely* within an enterprise zone.
24 *Debtors physically located within and outside the enterprise zone*
25 *shall not qualify the lender for the deduction for loans made*
26 *within the zone.*

27 (2) The indebtedness is incurred solely in connection with
28 activity within the enterprise zone. *Lenders shall verify and*
29 *document that the proceeds from loans made to taxpayers in the*
30 *enterprise zone are spent within the enterprise zone.*

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

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

36 *SEC. 7. Section 17267.2 of the Revenue and Taxation Code is*
37 *amended to read:*

38 17267.2. (a) A taxpayer may elect to treat ~~40~~ 60 percent of
39 the cost of any Section 17267.2 property as an expense which is
40 not chargeable to a capital account. Any cost so treated shall be

1 allowed as a deduction for the taxable year in which the taxpayer
2 places the Section 17267.2 property in service.

3 (b) In the case of a husband and wife filing separate returns for
4 a taxable year, the applicable amount under subdivision (a) shall
5 be equal to 50 percent of the percentage specified in subdivision
6 (a).

7 (c) (1) An election under this section for any taxable year
8 shall do both of the following:

9 (A) Specify the items of Section 17267.2 property to which
10 the election applies and the percentage of the cost of each of
11 those items that are to be taken into account under subdivision
12 (a).

13 (B) Be made on the taxpayer’s original return of the tax
14 imposed by this part for the taxable year.

15 (2) Any election made under this section, and any
16 specification contained in that election, may not be revoked
17 except with the consent of the Franchise Tax Board.

18 (d) (1) For purposes of this section, “Section 17267.2
19 property” means any recovery property that is:

20 (A) Section 1245 property (as defined in Section 1245(a) (3)
21 of the Internal Revenue Code).

22 (B) Purchased and placed in service by the taxpayer for
23 exclusive use in a trade or business conducted within an
24 enterprise zone designated pursuant to Chapter 12.8
25 (commencing with Section 7070) of Division 7 of Title 1 of the
26 Government Code.

27 (C) Purchased and placed in service before the date the
28 enterprise zone designation expires, is no longer binding, or
29 becomes inoperative.

30 (2) For purposes of paragraph (1), “purchase” means any
31 acquisition of property, but only if both of the following apply:

32 (A) The property is not acquired from a person whose
33 relationship to the person acquiring it would result in the
34 disallowance of losses under Section 267 or Section 707 (b) of
35 the Internal Revenue Code. However, in applying Section 267(b)
36 and 267(c) for purposes of this section, Section 267(c) (4) shall
37 be treated as providing that the family of an individual shall
38 include only the individual’s spouse, ancestors, and lineal
39 descendants.

1 (B) The basis of the property in the hands of the person
2 acquiring it is not determined in whole or in part by reference to
3 the adjusted basis of that property in the hands of the person from
4 whom it is acquired.

5 (3) For purposes of this section, the cost of property does not
6 include that portion of the basis of the property that is determined
7 by reference to the basis of other property held at any time by the
8 person acquiring the property.

9 (4) This section shall not apply to estates and trusts.

10 (5) This section shall not apply to any property for which the
11 taxpayer may not make an election for the taxable year under
12 Section 179 of the Internal Revenue Code because of the
13 application of the provisions of Section 179(d) of the Internal
14 Revenue Code.

15 (6) In the case of a partnership, the percentage limitation
16 specified in subdivision (a) shall apply at the partnership level
17 and at the partner level.

18 (e) For purposes of this section, “taxpayer” means a person or
19 entity who conducts a trade or business within an enterprise zone
20 designated pursuant to Chapter 12.8 (commencing with Section
21 7070) of Division 7 of Title 1 of the Government Code.

22 (f) Any taxpayer who elects to be subject to this section shall
23 not be entitled to claim for the same property, the deduction
24 under Section 179 of the Internal Revenue Code, relating to an
25 election to expense certain depreciable business assets. However,
26 the taxpayer may claim depreciation by any method permitted by
27 Section 168 of the Internal Revenue Code, commencing with the
28 taxable year following the taxable year in which the Section
29 17267.2 property is placed in service.

30 (g) The aggregate cost of all Section 17267.2 property that
31 may be taken into account under subdivision (a) for any taxable
32 year shall not exceed ~~the following applicable amount for the~~
33 ~~taxable year of the designation of the relevant enterprise zone~~
34 ~~and taxable years thereafter: one hundred thousand dollars~~
35 ~~(\$100,000).~~

36		
37	-	The applicable
38	-	amount is:
39	Taxable year of designation.....	\$100,000
40	1st taxable year thereafter.....	100,000

1	-	The applicable
2	-	amount is:
3	2nd taxable year thereafter.....	-75,000
4	3rd taxable year thereafter.....	-75,000
5	Each taxable year thereafter.....	-50,000

6
7 (h) Any amounts deducted under subdivision (a) with respect
8 to property subject to this section that ceases to be used in the
9 taxpayer’s trade or business within an enterprise zone at any time
10 before the close of the second taxable year after the property is
11 placed in service shall be included in income in the taxable year
12 in which the property ceases to be so used.

13 *SEC. 8. Section 17267.6 of the Revenue and Taxation Code is*
14 *amended to read:*

15 17267.6. (a) For each taxable year beginning on or after
16 January 1, 1998, a qualified taxpayer may elect to treat ~~40-60~~
17 percent of the cost of any Section 17267.6 property as an expense
18 that is not chargeable to a capital account. Any cost so treated
19 shall be allowed as a deduction for the taxable year in which the
20 qualified taxpayer places the Section 17267.6 property in service.

21 (b) In the case of a husband and wife filing separate returns for
22 a taxable year, the applicable amount under subdivision (a) shall
23 be equal to 50 percent of the percentage specified in subdivision
24 (a).

25 (c) (1) An election under this section for any taxable year
26 shall do both of the following:

27 (A) Specify the items of Section 17267.6 property to which
28 the election applies and the percentage of the cost of each of
29 those items that are to be taken into account under subdivision
30 (a).

31 (B) Be made on the qualified taxpayer’s original return of the
32 tax imposed by this part for the taxable year.

33 (2) Any election made under this section, and any
34 specification contained in that election, may not be revoked
35 except with the consent of the Franchise Tax Board.

36 (d) (1) For purposes of this section, “Section 17267.6
37 property” means any recovery property that is:

38 (A) Section 1245 property (as defined in Section 1245(a)(3) of
39 the Internal Revenue Code).

1 (B) Purchased and placed in service by the qualified taxpayer
2 for exclusive use in a trade or business conducted within a
3 targeted tax area designated pursuant to Chapter 12.93
4 (commencing with Section 7097) of Division 7 of Title 1 of the
5 Government Code.

6 (C) Purchased and placed in service before the date the
7 targeted tax area designation expires, is revoked, is no longer
8 binding, or becomes inoperative.

9 (2) For purposes of paragraph (1), “purchase” means any
10 acquisition of property, but only if both of the following apply:

11 (A) The property is not acquired from a person whose
12 relationship to the person acquiring it would result in the
13 disallowance of losses under Section 267 or Section 707(b) of the
14 Internal Revenue Code. However, in applying Sections 267(b)
15 and 267(c) for purposes of this section, Section 267(c)(4) shall be
16 treated as providing that the family of an individual shall include
17 only the individual’s spouse, ancestors, and lineal descendants.

18 (B) The basis of the property in the hands of the person
19 acquiring it is not determined in whole or in part by reference to
20 the adjusted basis of that property in the hands of the person from
21 whom it is acquired.

22 (3) For purposes of this section, the cost of property does not
23 include that portion of the basis of the property that is determined
24 by reference to the basis of other property held at any time by the
25 person acquiring the property.

26 (4) This section shall not apply to estates and trusts.

27 (5) This section shall not apply to any property for which the
28 qualified taxpayer may not make an election for the taxable year
29 under Section 179 of the Internal Revenue Code because of the
30 application of the provisions of Section 179(d) of the Internal
31 Revenue Code.

32 (6) In the case of a partnership, the percentage limitation
33 specified in subdivision (a) shall apply at the partnership level
34 and at the partner level.

35 (e) (1) For purposes of this section, “qualified taxpayer”
36 means a person or entity that meets both of the following:

37 (A) Is engaged in a trade or business within a targeted tax area
38 designated pursuant to Chapter 12.93 (commencing with Section
39 7097) of Division 7 of Title 1 of the Government Code.

1 (B) Is engaged in those lines of business described in Codes
 2 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
 3 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
 4 of the Standard Industrial Classification (SIC) Manual published
 5 by the United State Office of Management and Budget, 1987
 6 edition.

7 (2) In the case of any pass-through entity, the determination of
 8 whether a taxpayer is a qualified taxpayer under this section shall
 9 be made at the entity level and any deduction under this section
 10 or Section 24356.6 shall be allowed to the pass-through entity
 11 and passed through to the partners or shareholders in accordance
 12 with applicable provisions of this part of Part 11 (commencing
 13 with Section 23001). For purposes of this subparagraph, the term
 14 “pass-through entity” means any partnership or S corporation.

15 (f) Any qualified taxpayer who elects to be subject to this
 16 section shall not be entitled to claim for the same property, the
 17 deduction under Section 179 of the Internal Revenue Code,
 18 relating to an election to expense certain depreciable business
 19 assets. However, the qualified taxpayer may claim depreciation
 20 by any method permitted by Section 168 of the Internal Revenue
 21 Code, commencing with the taxable year following the taxable
 22 year in which the Section 17267.6 property is placed in service.

23 (g) The aggregate cost of all Section 17267.6 property that
 24 may be taken into account under subdivision (a) for any taxable
 25 year shall not exceed ~~the following applicable amount for the~~
 26 ~~taxable year of the designation of the relevant targeted tax area~~
 27 ~~and taxable years thereafter: one hundred thousand dollars~~
 28 ~~(\$100,000).~~

29

30		The applicable
31	-	amount is:
32	Taxable year of designation.....	\$100,000
33	1st taxable year thereafter.....	100,000
34	2nd taxable year thereafter.....	-75,000
35	3rd taxable year thereafter.....	-75,000
36	Each taxable year thereafter.....	-50,000

37

38 (h) Any amounts deducted under subdivision (a) with respect
 39 to Section 17267.6 property that ceases to be used in the
 40 qualified taxpayer’s trade or business within a targeted tax area at

1 any time before the close of the second taxable year after the
2 property is placed in service shall be included in income in the
3 taxable year in which the property ceases to be so used.

4 *SEC. 9. Section 17268 of the Revenue and Taxation Code is*
5 *amended to read:*

6 17268. (a) For each taxable year beginning on or after
7 January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of
8 the cost of any Section 17268 property as an expense that is not
9 chargeable to the capital account. Any cost so treated shall be
10 allowed as a deduction for the taxable year in which the taxpayer
11 places the Section 17268 property in service.

12 (b) In the case of a husband or wife filing separate returns for
13 a taxable year in which a spouse is entitled to the deduction
14 under subdivision (a), the applicable amount shall be equal to 50
15 percent of the amount otherwise determined under subdivision
16 (a).

17 (c) (1) An election under this section for any taxable year
18 shall meet both of the following requirements:

19 (A) Specify the items of Section 17268 property to which the
20 election applies and the portion of the cost of each of those items
21 that is to be taken into account under subdivision (a).

22 (B) Be made on the taxpayer's return of the tax imposed by
23 this part for the taxable year.

24 (2) Any election made under this section, and any
25 specification contained in that election, may not be revoked
26 except with the consent of the Franchise Tax Board.

27 (d) (1) For purposes of this section, "Section 17268 property"
28 means any recovery property that is each of the following:

29 (A) Section 1245 property (as defined in Section 1245(a)(3) of
30 the Internal Revenue Code).

31 (B) Purchased by the taxpayer for exclusive use in a trade or
32 business conducted within a LAMBRA.

33 (C) Purchased before the date the LAMBRA designation
34 expires, is no longer binding, or becomes inoperative.

35 (2) For purposes of paragraph (1), "purchase" means any
36 acquisition of property, but only if both of the following apply:

37 (A) The property is not acquired from a person whose
38 relationship to the person acquiring it would result in the
39 disallowance of losses under Section 267 or 707(b) of the
40 Internal Revenue Code (but, in applying Section 267(b) and

1 Section 267(c) of the Internal Revenue Code for purposes of this
2 section, Section 267(c)(4) of the Internal Revenue Code shall be
3 treated as providing that the family of an individual shall include
4 only his or her spouse, ancestors, and lineal descendants).

5 (B) The basis of the property in the hands of the person
6 acquiring it is not determined by either of the following:

7 (i) In whole or in part by reference to the adjusted basis of the
8 property in the hands of the person from whom acquired.

9 (ii) Under Section 1014 of the Internal Revenue Code, relating
10 to basis of property acquired from a decedent.

11 (3) For purposes of this section, the cost of property does not
12 include that portion of the basis of the property that is determined
13 by reference to the basis of other property held at any time by the
14 person acquiring the property.

15 (4) This section shall not apply to estates and trusts.

16 (5) This section shall not apply to any property for which the
17 taxpayer may not make an election for the taxable year under
18 Section 179 of the Internal Revenue Code because of the
19 provisions of Section 179(d) of the Internal Revenue Code.

20 (6) In the case of a partnership, the dollar limitation in
21 subdivision (f) shall apply at the partnership level and at the
22 partner level.

23 (7) This section shall not apply to any property described in
24 Section 168(f) of the Internal Revenue Code, relating to property
25 to which Section 168 of the Internal Revenue Code does not
26 apply.

27 (e) For purposes of this section:

28 (1) "LAMBRA" means a local agency military base recovery
29 area designated in accordance with the provisions of Section
30 7114 of the Government Code.

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

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

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

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

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

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

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

24 (f) The aggregate cost of all Section 17268 property that may
 25 be taken into account under subdivision (a) for any taxable year
 26 shall not exceed ~~the following applicable amounts for the taxable~~
 27 ~~year of the designation of the relevant LAMBRA and taxable~~
 28 ~~years thereafter: one hundred thousand dollars (\$100,000).~~

29		
30		- The applicable
31		amount is:
32	Taxable year of designation.....	\$100,000
33	1st taxable year thereafter.....	-100,000
34	2nd taxable year thereafter.....	-75,000
35	3rd taxable year thereafter.....	-75,000
36	Each taxable year thereafter.....	-50,000
37		

38 (g) This section shall apply only to property that is used
 39 exclusively in a trade or business conducted within a LAMBRA.

1 (h) (1) Any amounts deducted under subdivision (a) with
2 respect to property that ceases to be used in the trade or business
3 within a LAMBRA at any time before the close of the second
4 taxable year after the property was placed in service shall be
5 included in income for that year.

6 (2) At the close of the second taxable year, if the taxpayer has
7 not increased the number of its employees as determined by
8 paragraph (2) of subdivision (e), then the amount of the
9 deduction previously claimed shall be added to the taxpayer's
10 taxable income for the taxpayer's second taxable year.

11 (i) Any taxpayer who elects to be subject to this section shall
12 not be entitled to claim for the same property the deduction under
13 Section 179 of the Internal Revenue Code, relating to an election
14 to expense certain depreciable business assets.

15 *SEC. 10. Section 17276.2 of the Revenue and Taxation Code*
16 *is amended to read:*

17 17276.2. (a) The term "qualified taxpayer" as used in Section
18 17276.1 includes a person or entity engaged in the conduct of a
19 trade or business within an enterprise zone designated pursuant to
20 Chapter 12.8 (commencing with Section 7070) of Division 7 of
21 Title 1 of the Government Code. For purposes of this
22 subdivision, all of the following shall apply:

23 (1) A net operating loss shall not be a net operating loss
24 carryback to any taxable year and a net operating loss for any
25 taxable year beginning on or after the date that the area in which
26 the taxpayer conducts a trade or business is designated as an
27 enterprise zone shall be a net operating loss carryover to each of
28 the ~~15~~ 17 taxable years following the taxable year of loss.

29 (2) For purposes of this subdivision:

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

39 (i) ~~Loss shall be apportioned to the enterprise zone by~~
40 ~~multiplying total loss from the business by a fraction, the~~

1 numerator of which is the property factor plus the payroll factor,
2 and the denominator of which is two.

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

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

8 (C) ~~Attributable income is that portion of the taxpayer’s~~
9 ~~California source business income that is apportioned to the~~
10 ~~enterprise zone. For that purpose, the taxpayer’s business income~~
11 ~~attributable to sources in this state first shall be determined in~~
12 ~~accordance with Chapter 17 (commencing with Section 25101)~~
13 ~~of Part 11. That business income shall be further apportioned to~~
14 ~~the enterprise zone in accordance with Article 2 (commencing~~
15 ~~with Section 25120) of Chapter 17 of Part 11, modified for~~
16 ~~purposes of this subdivision as follows:~~

17 (i) ~~Business income shall be apportioned to the enterprise zone~~
18 ~~by multiplying the total California business income of the~~
19 ~~taxpayer by a fraction, the numerator of which is the property~~
20 ~~factor plus the payroll factor, and the denominator of which is~~
21 ~~two. For purposes of this clause:~~

22 (I) ~~The property factor is a fraction, the numerator of which is~~
23 ~~the average value of the taxpayer’s real and tangible personal~~
24 ~~property owned or rented and used in the enterprise zone during~~
25 ~~the taxable year, and the denominator of which is the average~~
26 ~~value of all the taxpayer’s real and tangible personal property~~
27 ~~owned or rented and used in this state during the taxable year.~~

28 (II) ~~The payroll factor is a fraction, the numerator of which is~~
29 ~~the total amount paid by the taxpayer in the enterprise zone~~
30 ~~during the taxable year for compensation, and the denominator of~~
31 ~~which is the total compensation paid by the taxpayer in this state~~
32 ~~during the taxable year.~~

33 (ii) ~~If a loss carryover is allowable pursuant to this section for~~
34 ~~any taxable year after the enterprise zone designation has~~
35 ~~expired, the enterprise zone shall be deemed to remain in~~
36 ~~existence for purposes of computing the limitation set forth in~~
37 ~~subparagraph (B) and allowing a net operating loss deduction.~~

38 (D) ~~—~~

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

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

7 (b) A taxpayer who qualifies as a “qualified taxpayer” under
8 one or more sections shall, for the taxable year of the net
9 operating loss and any taxable year to which that net operating
10 loss may be carried, designate on the original return filed for
11 each year the section which applies to that taxpayer with respect
12 to that net operating loss. If the taxpayer is eligible to qualify
13 under more than one section, the designation is to be made after
14 taking into account subdivision (c).

15 (c) If a taxpayer is eligible to qualify under this section and
16 either Section 17276.4, 17276.5, or 17276.6 as a “qualified
17 taxpayer,” with respect to a net operating loss in a taxable year,
18 the taxpayer shall designate which section is to apply to the
19 taxpayer.

20 (d) Notwithstanding Section 17276, the amount of the loss
21 determined under this section or Section 17276.4, 17276.5, or
22 17276.6 shall be the only net operating loss allowed to be carried
23 over from that taxable year and the designation under subdivision
24 (b) shall be included in the election under Section 17276.1.

25 *SEC. 11. Section 17276.5 of the Revenue and Taxation Code*
26 *is amended to read:*

27 17276.5. (a) For each taxable year beginning on or after
28 January 1, 1995, the term “qualified taxpayer” as used in Section
29 17276.1 includes a taxpayer engaged in the conduct of a trade or
30 business within a LAMBRA. For purposes of this subdivision, all
31 of the following shall apply:

32 (1) A net operating loss shall not be a net operating loss
33 carryback for any taxable year, and a net operating loss for any
34 taxable year beginning on or after the date the area in which the
35 taxpayer conducts a trade or business is designated a LAMBRA
36 shall be a net operating loss carryover to each following taxable
37 year that ends before the LAMBRA expiration date or to each of
38 the ~~15~~ 17 taxable years following the taxable year of loss, if
39 longer.

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

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

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

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

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

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

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

38 (4) “Net operating loss” means the loss determined under
39 Section 172 of the Internal Revenue Code, as modified by
40 Section 17276.1, attributable to the taxpayer’s business activities

1 within a LAMBRA prior to the LAMBRA expiration date. The
2 attributable loss shall be determined in accordance with Chapter
3 17 (commencing with Section 25101) of Part 11, modified for
4 purposes of this section as follows:

5 (A) Loss shall be apportioned to a LAMBRA by multiplying
6 total loss from the business by a fraction, the numerator of which
7 is the property factor plus the payroll factor, and the denominator
8 of which is 2.

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

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

13 (6) ~~Attributable income is that portion of the taxpayer’s~~
14 ~~California source business income that is apportioned to the~~
15 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
16 ~~attributable to sources in this state first shall be determined in~~
17 ~~accordance with Chapter 17 (commencing with Section 25101)~~
18 ~~of Part 11. That business income shall be further apportioned to~~
19 ~~the LAMBRA in accordance with Article 2 (commencing with~~
20 ~~Section 25120) of Chapter 17 of Part 11, modified for purposes~~
21 ~~of this subdivision as follows:~~

22 (A) ~~Business income shall be apportioned to a LAMBRA by~~
23 ~~multiplying total California business income of the taxpayer by a~~
24 ~~fraction, the numerator of which is the property factor plus the~~
25 ~~payroll factor, and the denominator of which is two. For purposes~~
26 ~~of this clause:~~

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

33 (ii) ~~The payroll factor is a fraction, the numerator of which is~~
34 ~~the total amount paid by the taxpayer in the LAMBRA during the~~
35 ~~taxable year for compensation, and the denominator of which is~~
36 ~~the total compensation paid by the taxpayer in this state during~~
37 ~~the taxable year.~~

38 (B) ~~If a loss carryover is allowable pursuant to this section for~~
39 ~~any taxable year after the LAMBRA designation has expired, the~~
40 ~~LAMBRA shall be deemed to remain in existence for purposes~~

1 of computing the limitation specified in paragraph (5) and
2 allowing a net operating loss deduction.

3 ~~(7)~~

4 (5) “LAMBRA expiration date” means the date the
5 LAMBRA designation expires, is no longer binding, or becomes
6 inoperative pursuant to Section 7110 of the Government Code.

7 (b) A taxpayer who qualifies as a “qualified taxpayer” under
8 one or more sections shall, for the taxable year of the net
9 operating loss and any taxable year to which that net operating
10 loss may be carried, designate on the original return filed for
11 each year the section that applies to that taxpayer with respect to
12 that net operating loss. If the taxpayer is eligible to qualify under
13 more than one section, the designation is to be made after taking
14 into account subdivision (c).

15 (c) If a taxpayer is eligible to qualify under this section and
16 either Section 17276.2, 17276.4, or 17276.6 as a “qualified
17 taxpayer,” with respect to a net operating loss in a taxable year,
18 the taxpayer shall designate which section is to apply to the
19 taxpayer.

20 (d) Notwithstanding Section 17276, the amount of the loss
21 determined under this section or Section 17276.2, 17276.4, or
22 17276.6 shall be the only net operating loss allowed to be carried
23 over from that taxable year and the designation under subdivision
24 (b) shall be included in the election under Section 17276.1.

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

27 *SEC. 12. Section 17276.6 of the Revenue and Taxation Code*
28 *is amended to read:*

29 17276.6. (a) For each taxable year beginning on or after
30 January 1, 1998, the term “qualified taxpayer” as used in Section
31 17276.1 includes a person or entity that meets both of the
32 following:

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

36 (2) Is engaged in those lines of business described in Codes
37 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
38 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
39 of the Standard Industrial Classification (SIC) Manual published
40 by the United States Office of Management and Budget, 1987

1 edition. In the case of any pass-through entity, the determination
2 of whether a taxpayer is a qualified taxpayer under this section
3 shall be made at the entity level.

4 (b) For purposes of subdivision (a), all of the following shall
5 apply:

6 (1) A net operating loss shall not be a net operating loss
7 carryback to any taxable year and a net operating loss for any
8 taxable year beginning on or after the date that the area in which
9 the qualified taxpayer conducts a trade or business is designated
10 as a targeted tax area shall be a net operating loss carryover to
11 each of the ~~15~~ 17 taxable years following the taxable year of loss.

12 (2) “Net operating loss” means the loss determined under
13 Section 172 of the Internal Revenue Code, as modified by
14 Section 17276.1, attributable to the qualified taxpayer’s business
15 activities within the targeted tax area (as defined in Chapter
16 12.93 (commencing with Section 7097) of Division 7 of Title 1
17 of the Government Code) prior to the targeted tax area expiration
18 date. ~~That attributable loss shall be determined in accordance~~
19 ~~with Chapter 17 (commencing with Section 25101) of Part 11,~~
20 ~~modified for purposes of this section as follows:~~

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

25 (B) ~~“The targeted tax area” shall be substituted for “this state.”~~

26 (3) ~~A net operating loss carryover shall be a deduction only~~
27 ~~with respect to the qualified taxpayer’s business income~~
28 ~~attributable to the targeted tax area as defined in Chapter 12.93~~
29 ~~(commencing with Section 7097) of Division 7 of Title 1 of the~~
30 ~~Government Code.~~

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

1 ~~(A) Business income shall be apportioned to the targeted tax~~
2 ~~area by multiplying the total business income of the taxpayer by~~
3 ~~a fraction, the numerator of which is the property factor plus the~~
4 ~~payroll factor, and the denominator of which is two. For purposes~~
5 ~~of this clause:~~

6 ~~(i) The property factor is a fraction, the numerator of which is~~
7 ~~the average value of the taxpayer's real and tangible personal~~
8 ~~property owned or rented and used in the targeted tax area during~~
9 ~~the taxable year, and the denominator of which is the average~~
10 ~~value of all the taxpayer's real and tangible personal property~~
11 ~~owned or rented and used in this state during the taxable year.~~

12 ~~(ii) The payroll factor is a fraction, the numerator of which is~~
13 ~~the total amount paid by the taxpayer in the targeted tax area~~
14 ~~during the taxable year for compensation, and the denominator of~~
15 ~~which is the total compensation paid by the taxpayer in this state~~
16 ~~during the taxable year.~~

17 ~~(B) If a loss carryover is allowable pursuant to this subdivision~~
18 ~~for any taxable year after the targeted tax area expiration date, the~~
19 ~~targeted tax area designation shall be deemed to remain in~~
20 ~~existence for purposes of computing the limitation specified in~~
21 ~~subparagraph (B) and allowing a net operating loss deduction.~~

22 ~~(5)~~

23 (3) "Targeted tax area expiration date" means the date the
24 targeted tax area designation expires, is revoked, is no longer
25 binding, or becomes inoperative.

26 ~~(b)~~

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

35 ~~(e)~~

36 (d) If a taxpayer is eligible to qualify under this section and
37 either Section 17276.2, 17276.4, or 17276.5 as a "qualified
38 taxpayer," with respect to a net operating loss in a taxable year,
39 the taxpayer shall designate which section is to apply to the
40 taxpayer.

1 ~~(d)~~

2 (e) Notwithstanding Section 17276, the amount of the loss
3 determined under this section or Section 17276.2, 17276.4, or
4 17276.5 shall be the only net operating loss allowed to be carried
5 over from that taxable year and the designation under subdivision
6 (b) shall be included in the election under Section 17276.1.

7 ~~(e)~~

8 (f) This section shall apply to taxable years beginning on or
9 after January 1, 1998.

10 SEC. 13. Section 23622.7 of the Revenue and Taxation Code
11 is amended to read:

12 23622.7. (a) There shall be allowed a credit against the “tax”
13 (as defined by Section 23036) to a taxpayer who employs a
14 qualified employee in an enterprise zone during the taxable year.
15 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

26 (b) For purposes of this section:

27 (1) “Qualified wages” means:

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

32 (ii) For up to 1,350 qualified employees who are employed by
33 the taxpayer in the Long Beach Enterprise Zone in aircraft
34 manufacturing activities described in Codes 3721 to 3728,
35 inclusive, and Code 3812 of the Standard Industrial
36 Classification (SIC) Manual published by the United States
37 Office of Management and Budget, 1987 edition, “qualified
38 wages” means that portion of hourly wages that does not exceed
39 202 percent of the minimum wage.

1 (B) Wages received during the 60-month period beginning
2 with the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase,
4 including a regularly occurring seasonal increase, in the trade or
5 business operations of the taxpayer does not constitute
6 commencement of employment for purposes of this section.

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

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

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

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

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

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

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

33 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

8 (V) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a disabled
10 individual who is eligible for or enrolled in, or has completed a
11 state rehabilitation plan or is a service-connected disabled
12 veteran, veteran of the Vietnam era, or veteran who is recently
13 separated from military service.

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

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

22 (aa) Federal Supplemental Security Income benefits.

23 (bb) Aid to Families with Dependent Children.

24 (cc) Food stamps.

25 (dd) State and local general assistance.

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

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

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

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

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

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

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

14 (c) The 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
18 office or social services agency, or the local government
19 administering the enterprise zone, a certification that provides
20 that a qualified employee meets the eligibility requirements
21 specified in clause (iv) of subparagraph (A) of paragraph (4) of
22 subdivision (b). The Employment Development Department may
23 provide preliminary screening and referral to a certifying agency.
24 The Employment Development Department shall develop a form
25 for this purpose. The Department of Housing and Community
26 Development shall develop regulations governing the issuance of
27 certificates by local governments pursuant to subdivision (a) of
28 Section 7086 of the Government Code.

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

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

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

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

39 (C) For purposes of this subdivision, “controlled group of
40 corporations” means “controlled group of corporations” as

1 defined in Section 1563(a) of the Internal Revenue Code, except
2 that:

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

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

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

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

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

1 year and all prior taxable years attributable to qualified wages
2 paid or incurred with respect to that qualified employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (h) The credit allowable under this section shall be reduced by
34 the credit allowed under Sections 23623.5, 23625, and 23646
35 claimed for the same employee. The credit shall also be reduced
36 by the federal credit allowed under Section 51 of the Internal
37 Revenue Code.

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

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

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

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

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

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

30 (A) The property factor is a fraction, the numerator of which is
31 the average value of the taxpayer’s real and tangible personal
32 property owned or rented and used in the enterprise zone during
33 the income year, and the denominator of which is the average
34 value of all the taxpayer’s real and tangible personal property
35 owned or rented and used in this state during the income year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the enterprise zone
38 during the income year for compensation, and the denominator of
39 which is the total compensation paid by the taxpayer in this state
40 during the income year.

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

5 (k) The changes made to this section by the act adding this
6 subdivision shall apply to taxable years on or after January 1,
7 1997.

8 *(l) (1) The credit authorized by this section shall not be*
9 *applicable on or after January 1, 2007.*

10 *(2) On or after January 1, 2007, taxpayers that would*
11 *otherwise be eligible to claim a credit authorized by this section,*
12 *may claim a credit for these expenses under Section 23622.9.*

13 *(3) Notwithstanding this subdivision, the provisions of*
14 *subdivision (f) of Section 23036 shall apply with respect to any*
15 *remaining carryover of the credit previously authorized by this*
16 *section.*

17 *SEC. 14. Section 23622.8 of the Revenue and Taxation Code*
18 *is amended to read:*

19 23622.8. (a) For each taxable year beginning on or after
20 January 1, 1998, there shall be allowed a credit against the “tax”
21 (as defined in Section 23036) to a qualified taxpayer for hiring a
22 qualified disadvantaged individual during the taxable year for
23 employment in the Manufacturing Enhancement Area. The credit
24 shall be equal to the sum of each of the following:

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

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

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

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

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

35 (b) For purposes of this section:

36 (1) “Qualified wages” means:

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

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

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

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

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

28 (3) “Manufacturing Enhancement Area” means an area
29 designated pursuant to Section 7073.8 of the Government Code
30 according to the procedures of Chapter 12.8 (commencing with
31 Section 7070) of Division 7 of Title 1 of the Government Code.

32 (4) “Manufacturing Enhancement Area expiration date” means
33 the date the Manufacturing Enhancement Area designation
34 expires, is no longer binding, or becomes inoperative.

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

37 (A) (i) At least 90 percent of whose services for the qualified
38 taxpayer during the taxable year are directly related to the
39 conduct of the qualified taxpayer’s trade or business located in a
40 Manufacturing Enhancement Area.

1 (ii) Who performs at least 50 percent of his or her services for
2 the qualified taxpayer during the taxable year in the
3 Manufacturing Enhancement Area.

4 (B) Who is hired by the qualified taxpayer after the
5 designation of the area as a Manufacturing Enhancement Area in
6 which the individual's services were primarily performed.

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

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

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

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

22 (6) "Qualified taxpayer" means any corporation engaged in a
23 trade or business within a Manufacturing Enhancement Area
24 designated pursuant to Section 7073.8 of the Government Code
25 and that meets all of the following requirements:

26 (A) Is engaged in those lines of business described in Codes
27 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
28 inclusive, of the Standard Industrial Classification (SIC) Manual
29 published by the United States Office of Management and
30 Budget, 1987 edition.

31 (B) At least 50 percent of the qualified taxpayer's workforce
32 hired after the designation of the Manufacturing Enhancement
33 Area is composed of individuals who, at the time of hire, are
34 residents of the county in which the Manufacturing Enhancement
35 Area is located.

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

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

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

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

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

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

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

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

35 (B) If the seasonal employment of any qualified disadvantaged
36 individual, with respect to whom qualified wages are taken into
37 account under subdivision (a) is not continued by the qualified
38 taxpayer for a period of 270 days of employment during the
39 60-month period beginning with the day the qualified
40 disadvantaged individual commences seasonal employment with

1 the qualified taxpayer, the tax imposed by this part, for the
2 income year that includes the 60th month following the month in
3 which the qualified disadvantaged individual commences
4 seasonal employment with the qualified taxpayer, shall be
5 increased by an amount equal to the credit allowed under
6 subdivision (a) for that taxable year and all prior taxable years
7 attributable to qualified wages paid or incurred with respect to
8 that qualified disadvantaged individual.

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

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

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

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

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

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

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

34 (i) A failure to continue the seasonal employment of a
35 qualified disadvantaged individual who voluntarily fails to return
36 to the seasonal employment of the qualified taxpayer.

37 (ii) A failure to continue the seasonal employment of a
38 qualified disadvantaged individual who, before the close of the
39 period referred to in subparagraph (B) of paragraph (1), becomes
40 disabled and unable to perform the services of that seasonal

1 employment, unless that disability is removed before the close of
2 that period and the qualified taxpayer fails to offer seasonal
3 employment to that qualified disadvantaged individual.

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

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

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

20 (C) For purposes of paragraph (1), the employment
21 relationship between the qualified taxpayer and a qualified
22 disadvantaged individual shall not be treated as terminated by
23 either of the following:

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

27 (ii) By reason of a mere change in the form of conducting the
28 trade or business of the qualified taxpayer, if the qualified
29 disadvantaged individual continues to be employed in that trade
30 or business and the qualified taxpayer retains a substantial
31 interest in that trade or business.

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

35 (e) The credit shall be reduced by the credit allowed under
36 Section 23621. The credit shall also be reduced by the federal
37 credit allowed under Section 51 of the Internal Revenue Code.

38 In addition, any deduction otherwise allowed under this part
39 for the wages or salaries paid or incurred by the qualified
40 taxpayer upon which the credit is based shall be reduced by the

1 amount of the credit, prior to any reduction required by
2 subdivision (f) or (g).

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

9 (g) (1) The amount of credit otherwise allowed under this
10 section, including prior year credit carryovers, that may reduce
11 the “tax” for the taxable year shall not exceed the amount of tax
12 that would be imposed on the qualified taxpayer’s business
13 income attributed to a Manufacturing Enhancement Area
14 determined as if that attributed income represented all of the net
15 income of the qualified taxpayer subject to tax under this part.

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

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

31 (A) The property factor is a fraction, the numerator of which is
32 the average value of the taxpayer’s real and tangible personal
33 property owned or rented and used in the Manufacturing
34 Enhancement Area during the taxable year, and the denominator
35 of which is the average value of all the taxpayer’s real and
36 tangible personal property owned or rented and used in this state
37 during the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is
39 the total amount paid by the taxpayer in the Manufacturing
40 Enhancement Area during the taxable year for compensation, and

1 the denominator of which is the total compensation paid by the
2 taxpayer in this state during the taxable year.

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

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

11 (i) (1) *The credit authorized by this section shall not be*
12 *applicable on or after January 1, 2007.*

13 (2) *On or after January 1, 2007, taxpayers that would*
14 *otherwise be eligible to claim a credit authorized by this section,*
15 *may claim a credit for these expenses under Section 23622.9.*

16 (3) *Notwithstanding this subdivision, the provisions of*
17 *subdivision (f) of Section 23036 shall apply with respect to any*
18 *remaining carryover of the credit previously authorized by this*
19 *section.*

20 *SEC. 15. Section 23622.9 is added to the Revenue and*
21 *Taxation Code, to read:*

22 *23622.9. (a) For each taxable year beginning on or after*
23 *January 1, 2007, there shall be allowed a credit against the*
24 *“tax” (as defined in Section 23036) to a taxpayer who employs a*
25 *qualified employee in a geographically targeted economic*
26 *development area during the taxable year. The credit shall be*
27 *equal to the sum of each of the following:*

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

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

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

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

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

38 (b) *For purposes of this section:*

39 (1) *“Geographically targeted economic development area”*
40 *means any of the following:*

1 (A) An enterprise zone designated as an enterprise zone
2 pursuant to Chapter 12.8 (commencing with Section 7070) of
3 Division 7 of Title 1 of the Government Code.

4 (B) A local agency military base recovery area designated as
5 a local agency military base recovery area pursuant to Chapter
6 12.97 (commencing with Section 7105).

7 (C) A targeted tax area designated as a targeted tax area
8 pursuant to Chapter 12.93 (commencing with Section 7097).

9 (D) A manufacturing enhancement area designated as a
10 manufacturing enhancement area pursuant to Chapter 12.8
11 (commencing with Section 7073.8).

12 (2) “Geographically targeted economic development area
13 expiration date” means the date the geographically targeted
14 economic development area designation expires, is no longer
15 binding, or becomes inoperative.

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

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

22 (i) At least 90 percent of whose services for the taxpayer
23 during the taxable year are directly related to the conduct of the
24 taxpayer’s trade or business located in a geographically targeted
25 economic development area.

26 (ii) Performs at least 50 percent of his or her services for the
27 taxpayer during the taxable year in a geographically targeted
28 economic development area.

29 (iii) Is hired by the taxpayer after the date of original
30 designation of the area in which services were performed as a
31 geographically targeted economic development area.

32 (iv) Is any of the following, as documented by the
33 geographically targeted economic development area
34 coordinator:

35 (I) Immediately preceding the qualified employee’s
36 commencement of employment with the taxpayer, was a person
37 enrolled and documented in the California Job Training
38 Automation System by an authorized WIA representative under
39 the federal Workforce Investment Act (29 U.S.C. Sec. 720 et
40 seq.), or its successor.

- 1 (II) Immediately preceding the qualified employee's
 2 commencement of employment with the taxpayer, was a person
 3 receiving benefits under the California Work Opportunity and
 4 Responsibility to Kids program pursuant to Article 3.2
 5 (commencing with Section 11200) of Chapter 2 of Part 3 of
 6 Division 9 of the Welfare and Institutions Code, or its successor.
- 7 (III) Immediately preceding the qualified employee's
 8 commencement of employment with the taxpayer, was an
 9 economically disadvantaged individual 14 years of age or older.
 10 For purposes of this section, "economically disadvantaged
 11 individual" means an individual who meets the definition of that
 12 term under the Workforce Investment Act, or its successor.
- 13 (IV) Immediately preceding the qualified employee's
 14 commencement of employment with the taxpayer, was a
 15 dislocated worker. For purposes of this section, a "dislocated
 16 worker" means an individual who meets the definition of that
 17 term under the Workforce Investment Act, or its successor.
- 18 (V) Immediately preceding the qualified employee's
 19 commencement of employment with the taxpayer, was a disabled
 20 individual who is eligible for or enrolled in, or has completed a
 21 state rehabilitation plan.
- 22 (VI) Is a service-connected disabled veteran, veteran of the
 23 Vietnam era, an individual who served in the active military,
 24 naval, or air service, and who was discharged or released from
 25 that service under conditions other than dishonorable, or any
 26 veteran who was discharged or released in the last 48 months
 27 from active military, naval, or an air service.
- 28 (VII) Has a prior felony conviction. An individual shall be
 29 treated as convicted if he or she was placed on probation by a
 30 state court without a finding of guilt.
- 31 (VIII) Immediately preceding the qualified employee's
 32 commencement of employment with the taxpayer, was a person
 33 receiving any of the following:
- 34 (aa) Federal Supplemental Security Income benefits.
 - 35 (bb) Temporary Assistance for Needy Families.
 - 36 (cc) Food stamps.
 - 37 (dd) State and local general assistance.
- 38 (IX) 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 (X) 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 (XI) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a member
9 of a targeted group, as defined in Section 51(d) of the Internal
10 Revenue Code, or its successor.

11 (XII) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a
13 "qualified former foster care recipient," which means an
14 individual who is certified by the local designated agency to have
15 met both the following:

16 (aa) Having attained age 17 but not age 25 on the hiring date.

17 (bb) Having, before attaining the age of 18, been either a
18 recipient of foster care maintenance payments under a state plan
19 approved under Part E of Title IV of the Social Security Act (42
20 U.S.C. Sec. 301), or in foster care under the responsibility of a
21 state.

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

29 (5) "Qualified wages" means:

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

34 (ii) For up to 1,350 qualified employees who are employed by
35 the taxpayer in the Long Beach Enterprise Zone in aircraft
36 manufacturing activities described in Codes 3721 to 3728,
37 inclusive, and Code 3812 of the Standard Industrial
38 Classification (SIC) Manual published by the United States
39 Office of Management and Budget, 1987 edition, "qualified

1 wages” means that portion of hourly wages that does not exceed
2 202 percent of the minimum wage.

3 (B) Wages received during the 60-month period beginning
4 with the first day the employee commences employment with the
5 taxpayer. Reemployment in connection with any increase,
6 including a regularly occurring seasonal increase, in the trade
7 or business operations of the taxpayer does not constitute
8 commencement of employment for purposes of this section.

9 (C) Qualified wages do not include any wages paid or
10 incurred by the taxpayer on or after the expiration date of the
11 geographically targeted economic development area. However,
12 wages paid or incurred with respect to qualified employees who
13 are employed by the taxpayer within the geographically targeted
14 economic development area within the 60-month period prior to
15 the zone expiration date shall continue to qualify for the credit
16 under this section after the expiration date of the geographically
17 targeted economic development area, in accordance with all
18 provisions of this section applied as if the geographically
19 targeted economic development area designation were still in
20 existence and binding.

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

24 (7) “Taxpayer” means a person or entity engaged in a trade
25 or business within a geographically targeted economic
26 development area.

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

28 (1) Obtain from the geographically targeted economic
29 development area coordinator designated by the local
30 jurisdiction in which the employee is employed or, if serving that
31 geographically targeted economic development area, the
32 Employment Development Department, as permitted by federal
33 law, the local county or city Workforce Investment Act (or its
34 successor) administrative entity, or the local county CalWORKs
35 office or social services agency, or its successors, a certification
36 which provides that a qualified employee meets the eligibility
37 requirements specified in clause (iv) of subparagraph (A) of
38 paragraph (4) of subdivision (b). The Employment Development
39 Department may provide preliminary screening and referral to a
40 certifying agency. The Employment Development Department

1 shall develop a form for this purpose. The Department of
2 Housing and Community Development shall develop regulations
3 governing the issuance of certificates by local governments
4 pursuant to subdivision (a) of Section 7086 of the Government
5 Code. Applications for this certification shall be submitted to the
6 certifying agency within 24 months of the commencement date of
7 employment with the taxpayer. The certifying agency shall not
8 issue a certification when the employer or the employer's agent
9 is the second signatory on the applicant's statement for
10 establishing eligibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (iii) A termination of employment of a qualified employee, if it
36 is determined that the termination was due to the misconduct (as
37 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
38 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
3 the 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
11 qualified 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
14 qualified employee who, before the close of the period referred to
15 in subparagraph (B) of paragraph (1), becomes disabled and
16 unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the taxpayer fails to offer seasonal employment to that
19 qualified employee.

20 (iii) A failure to continue the seasonal employment of a
21 qualified employee, if it is determined that the failure to continue
22 the seasonal employment was due to the misconduct (as defined
23 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
24 California 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
29 qualified employee, if that qualified employee is replaced by
30 other qualified employees so as to create a net increase in both
31 the number of seasonal employees and the hours of seasonal
32 employment.

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

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

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

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

3 (3) Any increase in tax under paragraph (1) shall not be
4 treated as tax imposed by this part for purposes of determining
5 the amount 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 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
11 investment trust subject to taxation under this part.

12 (g) (1) The credit allowable under this section shall be
13 reduced by the credit allowed under Sections 23623.5 and 23625
14 claimed for the same employee. The credit shall also be reduced
15 by the federal credit allowed under Section 51 of the Internal
16 Revenue Code.

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

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

27 (i) (1) The amount of the credit otherwise allowed under this
28 section and Section 23612.2, including any credit carryover from
29 prior years, that may reduce the “tax” for the taxable year shall
30 not exceed the amount of tax which would be imposed on the
31 taxpayer’s business income attributable to the geographically
32 targeted economic development area determined as if that
33 attributable income represented all of the income of the taxpayer
34 subject to tax under this part.

35 (2) Attributable income shall be that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 geographically targeted economic development area. For that
38 purpose, the taxpayer’s business income attributable to sources
39 in this state first shall be determined in accordance with Chapter
40 17 (commencing with Section 25101) of Part 11. That business

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

6 *(3) Business income shall be apportioned to the*
7 *geographically targeted economic development area by*
8 *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 geographically*
15 *targeted economic development area during the taxable year,*
16 *and the denominator of which is the average value of all the*
17 *taxpayer's real and tangible personal property owned or rented*
18 *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 geographically*
21 *targeted economic development area during the taxable year for*
22 *compensation, and the denominator of which is the total*
23 *compensation paid by the taxpayer in this state during the*
24 *taxable year.*

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

29 *SEC. 16. Section 23634 of the Revenue and Taxation Code is*
30 *amended to read:*

31 *23634. (a) For each taxable year beginning on or after*
32 *January 1, 1998, there shall be allowed a credit against the "tax"*
33 *(as defined by Section 23036) to a qualified taxpayer who*
34 *employs a qualified employee in a targeted tax area during the*
35 *taxable year. The credit shall be equal to the sum of each of the*
36 *following:*

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

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

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

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

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

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) 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
13 with the first day the employee commences employment with the
14 qualified taxpayer. Reemployment in connection with any
15 increase, including a regularly occurring seasonal increase, in the
16 trade or business operations of the qualified taxpayer does not
17 constitute commencement of employment for purposes of this
18 section.

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

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

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

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

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

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

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

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

8 (iv) Is any of the following:

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

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

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

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

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

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

- 1 (cc) Is long-term unemployed and has limited opportunities for
- 2 employment or reemployment in the same or a similar
- 3 occupation in the area in which the individual resides, including
- 4 an individual 55 years of age or older who may have substantial
- 5 barriers to employment by reason of age.
- 6 (dd) Was self-employed (including farmers and ranchers) and
- 7 is unemployed as a result of general economic conditions in the
- 8 community in which he or she resides or because of natural
- 9 disasters.
- 10 (ee) Was a civilian employee of the Department of Defense
- 11 employed at a military installation being closed or realigned
- 12 under the Defense Base Closure and Realignment Act of 1990.
- 13 (ff) Was an active member of the armed forces or National
- 14 Guard as of September 30, 1990, and was either involuntarily
- 15 separated or separated pursuant to a special benefits program.
- 16 (gg) Is a seasonal or migrant worker who experiences chronic
- 17 seasonal unemployment and underemployment in the agriculture
- 18 industry, aggravated by continual advancements in technology
- 19 and mechanization.
- 20 (hh) Has been terminated or laid off, or has received a notice
- 21 of termination or layoff, as a consequence of compliance with the
- 22 Clean Air Act.
- 23 (V) Immediately preceding the qualified employee's
- 24 commencement of employment with the qualified taxpayer, was
- 25 a disabled individual who is eligible for or enrolled in, or has
- 26 completed a state rehabilitation plan or is a service-connected
- 27 disabled veteran, veteran of the Vietnam era, or veteran who is
- 28 recently separated from military service.
- 29 (VI) Immediately preceding the qualified employee's
- 30 commencement of employment with the qualified taxpayer, was
- 31 an ex-offender. An individual shall be treated as convicted if he
- 32 or she was placed on probation by a state court without a finding
- 33 of guilt.
- 34 (VII) Immediately preceding the qualified employee's
- 35 commencement of employment with the qualified taxpayer, was
- 36 a person eligible for or a recipient of any of the following:
- 37 (aa) Federal Supplemental Security Income benefits.
- 38 (bb) Aid to Families with Dependent Children.
- 39 (cc) Food stamps.
- 40 (dd) State and local general assistance.

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

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

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

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

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

20 (i) Is engaged in a trade or business within a targeted tax area
21 designated pursuant to Chapter 12.93 (commencing with Section
22 7097) of Division 7 of Title 1 of the Government Code.

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

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

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

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

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

8 (1) Obtain from either the Employment Development
9 Department, as permitted by federal law, or the local county or
10 city Job Training Partnership Act administrative entity or the
11 local county GAIN office or social services agency, as
12 appropriate, a certification that provides that a qualified
13 employee meets the eligibility requirements specified in clause
14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
15 Employment Development Department may provide preliminary
16 screening and referral to a certifying agency. The Employment
17 Development Department shall develop a form for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (C) For purposes of paragraph (1), the employment
40 relationship between the qualified taxpayer and a qualified

1 employee shall not be treated as terminated by either of the
2 following:

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

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

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

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

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

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

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

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

30 (j) (1) The amount of the credit otherwise allowed under this
31 section and Section 23633, including any credit carryover from
32 prior years, that may reduce the “tax” for the taxable year shall
33 not exceed the amount of tax that would be imposed on the
34 qualified taxpayer’s business income attributable to the targeted
35 tax area determined as if that attributable income represented all
36 of the income of the qualified taxpayer subject to tax under this
37 part.

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

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

7 (3) Business income shall be apportioned to the targeted tax
8 area by multiplying the total California business income of the
9 taxpayer by a fraction, the numerator of which is the property
10 factor plus the payroll factor, and the denominator of which is
11 two. For 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 targeted tax area during
15 the taxable year, and the denominator of which is the average
16 value of all the taxpayer's real and tangible personal property
17 owned or rented and used in this state during the taxable year.

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

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

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

32 *(k) (1) The credit authorized by this section shall not be*
33 *applicable on or after January 1, 2007.*

34 *(2) On or after January 1, 2007, taxpayers that would*
35 *otherwise be eligible to claim a credit authorized by this section,*
36 *may claim a credit for these expenses under Section 23622.9.*

37 *(3) Notwithstanding this subdivision, the provisions of*
38 *subdivision (f) of Section 23036 shall apply with respect to any*
39 *remaining carryover of the credit previously authorized by this*
40 *section.*

1 *SEC. 17. Section 23646 of the Revenue and Taxation Code is*
2 *amended to read:*

3 23646. (a) For each taxable year beginning on or after
4 January 1, 1995, there shall be allowed as a credit against the
5 “tax” (as defined in Section 23036) to a qualified taxpayer for
6 hiring a qualified disadvantaged individual or a qualified
7 displaced employee during the taxable year for employment in
8 the LAMBRA. The credit shall be equal to the sum of each of the
9 following:

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

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

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

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

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

20 (b) For purposes of this section:

21 (1) “Qualified wages” means:

22 (A) That portion of wages paid or incurred by the employer
23 during the taxable year to qualified disadvantaged individuals or
24 qualified displaced employees that does not exceed 150 percent
25 of the minimum wage.

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

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

36 (D) Qualified wages do not include any wages paid or incurred
37 by the qualified taxpayer on or after the LAMBRA expiration
38 date. However, wages paid or incurred with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA

1 within the 60-month period prior to the LAMBRA expiration
2 date shall continue to qualify for the credit under this section
3 after the LAMBRA expiration date, in accordance with all
4 provisions of this section applied as if the LAMBRA designation
5 were still in existence and binding.

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

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

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

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

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

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

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

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

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

32 (iii) An economically disadvantaged individual age 16 years or
33 older.

34 (iv) A dislocated worker who meets any of the following
35 conditions:

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

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

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

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

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

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

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

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

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

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

35 (vii) A recipient of:

36 (I) Federal Supplemental Security Income benefits.

37 (II) Aid to Families with Dependent Children.

38 (III) Food stamps.

39 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) Obtain from either the Employment Development
18 Department, as permitted by federal law, the administrative
19 entity of the local county or city for the federal Job Training
20 Partnership Act, or its successor, the local county GAIN office,
21 or social services agency, as appropriate, a certification that
22 provides that a qualified disadvantaged individual or qualified
23 displaced employee meets the eligibility requirements specified
24 in subparagraph (C) of paragraph (4) of subdivision (b) or
25 subparagraph (A) of paragraph (6) of subdivision (b). The
26 Employment Development Department may provide preliminary
27 screening and referral to a certifying agency. The Employment
28 Development Department shall develop a form for this purpose.

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

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

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

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

39 (2) For purposes of this subdivision, "controlled group of
40 corporations" has the meaning given to that term by Section

1 1563(a) of the Internal Revenue Code, except that both of the
2 following apply:

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

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

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

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

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

1 subdivision (a) for that taxable year and all prior taxable years
2 attributable to qualified wages paid or incurred with respect to
3 that qualified disadvantaged individual.

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

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

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

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

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

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

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

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

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

36 (iii) A failure to continue the seasonal employment of a
37 qualified disadvantaged individual, if it is determined that the
38 failure to continue the seasonal employment was due to the
39 misconduct (as defined in Sections 1256-30 to 1256-43,

1 inclusive, of Title 22 of the California Code of Regulations) of
2 that individual.

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

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

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

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

18 (ii) A mere change in the form of conducting the trade or
19 business of the taxpayer, if the employee continues to be
20 employed in that trade or business and the taxpayer retains a
21 substantial interest in that trade or business.

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

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

30 (f) In the case of an organization to which Section 593 of the
31 Internal Revenue Code applies, and a regulated investment
32 company or a real estate investment trust subject to taxation
33 under this part, rules similar to the rules provided in Section
34 46(e) and Section 46(h) of the Internal Revenue Code shall
35 apply.

36 (g) The credit shall be reduced by the credit allowed under
37 Section 23621. The credit shall also be reduced by the federal
38 credit allowed under Section 51 of the Internal Revenue Code.

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

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

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

9 (i) (1) The amount of credit otherwise allowed under this
10 section and Section 23645, including any prior year carryovers,
11 that may reduce the “tax” for the taxable year shall not exceed
12 the amount of tax that would be imposed on the taxpayer’s
13 business income attributed to a LAMBRA determined as if that
14 attributed income represented all of the income of the taxpayer
15 subject to tax under this part.

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

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

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

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

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

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

9 (k) (1) *The credit authorized by this section shall not be*
10 *applicable on or after January 1, 2007.*

11 (2) *On or after January 1, 2007, taxpayers that would*
12 *otherwise be eligible to claim a credit authorized by this section,*
13 *may claim a credit for these expenses under Section 23622.9.*

14 (3) *Notwithstanding this subdivision, the provisions of*
15 *subdivision (f) of Section 23036 shall apply with respect to any*
16 *remaining carryover of the credit previously authorized by this*
17 *section.*

18 *SEC. 18. Section 24356.6 of the Revenue and Taxation Code*
19 *is amended to read:*

20 24356.6. (a) For each taxable year beginning on or after
21 January 1, 1998, a qualified taxpayer may elect to treat ~~40~~ 60
22 percent of the cost of any Section 24356.6 property as an expense
23 that is not chargeable to a capital account. Any cost so treated
24 shall be allowed as a deduction for the taxable year in which the
25 qualified taxpayer places the Section 24356.6 property in service.

26 (b) (1) An election under this section for any taxable year
27 shall do both of the following:

28 (A) Specify the items of Section 24356.6 property to which
29 the election applies and the percentage of the cost of each of
30 those items that are to be taken into account under subdivision
31 (a).

32 (B) Be made on the qualified taxpayer’s original return of the
33 tax imposed by this part for the taxable year.

34 (2) Any election made under this section, and any
35 specification contained in that election, may not be revoked
36 except with the consent of the Franchise Tax Board.

37 (c) (1) For purposes of this section, “Section 24356.6
38 property” means any recovery property that is:

39 (A) Section 1245 property (as defined in Section 1245 (a)(3)
40 of the Internal Revenue Code).

1 (B) Purchased and placed in service by the qualified taxpayer
2 for exclusive use in a trade or business conducted within a
3 targeted tax area designated pursuant to Chapter 12.93
4 (commencing with Section 7097) of Division 7 of Title 1 of the
5 Government Code.

6 (C) Purchased and placed in service before the date the
7 targeted tax area designation expires, is revoked, is no longer
8 binding, or becomes inoperative.

9 (2) For purposes of paragraph (1), “purchase” means any
10 acquisition of property, but only if all of the following apply:

11 (A) The property is not acquired from a person whose
12 relationship to the person acquiring it would result in the
13 disallowance of losses under Section 267 or 707(b) of the
14 Internal Revenue Code. However, in applying Sections 267(b)
15 and 267(c) for purposes of this section, Section 267(c)(4) shall be
16 treated as providing that the family of an individual shall include
17 only the individual’s spouse, ancestors, and lineal descendants.

18 (B) The property is not acquired by one member of an
19 affiliated group from another member of the same affiliated
20 group.

21 (C) The basis of the property in the hands of the person
22 acquiring it is not determined in whole or in part by reference to
23 the adjusted basis of that property in the hands of the person from
24 who it is acquired.

25 (3) For purposes of this section, the cost of property does not
26 include that portion of the basis of that property that is
27 determined by reference to the basis of other property held at any
28 time by the person acquiring that property.

29 (4) This section shall not apply to any property for which the
30 qualified taxpayer may not make an election under Section 179
31 of the Internal Revenue Code because of the application of the
32 provisions of Section 179(d) of the Internal Revenue Code.

33 (5) For purposes of subdivision (b), both of the following
34 apply:

35 (A) All members of an affiliated group shall be treated as one
36 qualified taxpayer.

37 (B) The qualified taxpayer shall apportion the dollar limitation
38 contained in subdivision (f) among the members of the affiliated
39 group in whatever manner the board shall prescribe.

1 (6) For purposes of paragraphs (2) and (5), “affiliated group”
2 means “affiliated group” as defined in Section 1504 of the
3 Internal Revenue Code, except that, for these purposes, the
4 phrase “more than 50 percent” shall be substituted for the phrase
5 “at least 80 percent” each place it appears in Section 1504(a) of
6 the Internal Revenue Code.

7 (d) (1) For purposes of this section, “qualified taxpayer”
8 means a corporation that meets both of the following:

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

13 (B) Is engaged in those lines of business described in Codes
14 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
15 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
16 of the Standard Industrial Classification (SIC) Manual published
17 by the United States Office of Management and Budget, 1987
18 edition.

19 (2) In the case of any pass-through entity, the determination of
20 whether a taxpayer is a qualified taxpayer under this section shall
21 be made at the entity level and any deduction under this section
22 or Section 17267.6 shall be allowed to the pass-through entity
23 and passed through to the partners or shareholders in accordance
24 with applicable provisions of this part or Part 10 (commencing
25 with Section 17001). For purposes of this subparagraph, the term
26 “pass-through entity” means any partnership or S corporation.

27 (e) Any qualified taxpayer who elects to be subject to this
28 section shall not be entitled to claim additional depreciation
29 pursuant to Section 24356 with respect to any property that
30 constitutes Section 24356.6 property. However, the qualified
31 taxpayer may claim depreciation by any method permitted by
32 Section 24349 commencing with the taxable year following the
33 taxable year in which Section 24356.6 property is placed in
34 service.

35 (f) The aggregate cost of all Section 24356.6 property that
36 may be taken into account under subdivision (a) for any taxable
37 year shall not exceed ~~the following applicable amount for the~~
38 ~~taxable year of the designation of the relevant targeted tax area~~
39 ~~and taxable years thereafter:~~ *one hundred thousand dollars*
40 *(\$100,000).*

1		The applicable
2		amount is:
3	Taxable year of designation.....	\$100,000
4	1st taxable year thereafter.....	100,000
5	2nd taxable year thereafter.....	75,000
6	3rd taxable year thereafter.....	- 75,000
7	Each taxable year thereafter.....	- 50,000

8
9 (g) Any amounts deducted under subdivision (a) with respect
10 to Section 24356.6 property that ceases to be used in the
11 qualified taxpayer’s trade or business within a targeted tax area at
12 any time before the close of the second taxable year after the
13 property is placed in service shall be included in income in the
14 taxable year in which the property ceases to be so used.

15 *SEC. 19. Section 24356.7 of the Revenue and Taxation Code*
16 *is amended to read:*

17 24356.7. (a) A taxpayer may elect to treat ~~40~~ 60 percent of
18 the cost of any Section 24356.7 property as an expense that is not
19 chargeable to a capital account. Any cost so treated shall be
20 allowed as a deduction for the taxable year in which the taxpayer
21 places the Section 24356.7 property in service.

22 (b) (1) An election under this section for any taxable year
23 shall do both of the following:

24 (A) Specify the items of Section 24356.7 property to which
25 the election applies and the percentage of the cost of each of
26 those items that are to be taken into account under subdivision
27 (a).

28 (B) Be made on the taxpayer’s original return of the tax
29 imposed by this part for the taxable year.

30 (2) Any election made under this section, and any
31 specification contained in that election, may not be revoked
32 except with the consent of the Franchise Tax Board.

33 (c) (1) For purposes of this section, “Section 24356.7
34 property” means any recovery property that is:

35 (A) Section 1245 property (as defined in Section 1245(a)(3) of
36 the Internal Revenue Code).

37 (B) Purchased and placed in service by the taxpayer for
38 exclusive use in a trade or business conducted within an
39 enterprise zone designated pursuant to Chapter 12.8

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

3 (C) Purchased and placed in service before the date the
4 enterprise zone designation expires, is no longer binding, or
5 becomes inoperative.

6 (2) For purposes of paragraph (1), “purchase” means any
7 acquisition of property, but only if all of the following apply:

8 (A) The property is not acquired from a person whose
9 relationship to the person acquiring it would result in the
10 disallowance of losses under Sections 24427 through 24429.
11 However, in applying Sections 24428 and 24429 for purposes of
12 this section, subdivision (d) of Section 24429 shall be treated as
13 providing that the family of an individual shall include only his
14 or her spouse, ancestors, and lineal descendants.

15 (B) The property is not acquired by one member of an
16 affiliated group from another member of the same affiliated
17 group.

18 (C) The basis of the property in the hands of the person
19 acquiring it is not determined in whole or in part by reference to
20 the adjusted basis of that property in the hands of the person from
21 whom it is acquired.

22 (3) For purposes of this section, the cost of property does not
23 include that portion of the basis of that property that is
24 determined by reference to the basis of other property held at any
25 time by the person acquiring that property.

26 (4) This section shall not apply to any property for which the
27 taxpayer could not make a federal election under Section 179 of
28 the Internal Revenue Code because of the application of the
29 provisions of Section 179(d) of the Internal Revenue Code.

30 (5) For purposes of subdivision (b) of this section, both of the
31 following apply:

32 (A) All members of an affiliated group shall be treated as one
33 taxpayer.

34 (B) The taxpayer shall apportion the dollar limitation
35 contained in subdivision (f) among the members of the affiliated
36 group in whatever manner the board shall prescribe.

37 (6) For purposes of paragraphs (2) and (5), “affiliated group”
38 means “affiliated group” as defined in Section 1504 of the
39 Internal Revenue Code, except that, for these purposes, the
40 phrase “more than 50 percent” shall be substituted for the phrase

1 “at least 80 percent” each place it appears in Section 1504(a) of
2 the Internal Revenue Code.

3 (d) For purposes of this section, “taxpayer” means a bank or
4 corporation that conducts a trade or business within an enterprise
5 zone designated pursuant to Chapter 12.8 (commencing with
6 Section 7070) of Division 7 of Title 1 of the Government Code.

7 (e) Any taxpayer who elects to be subject to this section shall
8 not be entitled to claim additional depreciation pursuant to
9 Section 24356 with respect to any property that constitutes
10 Section 24356.7 property. However, the taxpayer may claim
11 depreciation by any method permitted by Section 24349
12 commencing with the taxable year following the taxable year in
13 which Section 24356.7 property is placed in service.

14 (f) The aggregate cost of all Section 24356.7 property that
15 may be taken into account under subdivision (a) for any taxable
16 years shall not exceed ~~the following applicable amount for the~~
17 ~~taxable year of the designation of the relevant enterprise zone~~
18 ~~and taxable years thereafter: one hundred thousand dollars~~
19 ~~(\$100,000).~~

21 -	The applicable
22 -	amount is:
23 Taxable year of designation.....	\$100,000
24 1st taxable year thereafter.....	100,000
25 2nd taxable year thereafter.....	- 75,000
26 3rd taxable year thereafter.....	75,000
27 Each taxable year thereafter.....	50,000

28
29 (g) Any amounts deducted under subdivision (a) with respect
30 to Section 24356.7 property that ceases to be used in the
31 taxpayer’s trade or business within an enterprise zone at any time
32 before the close of the second taxable year after the property is
33 placed in service shall be included in income in the taxable year
34 in which the property ceases to be so used.

35 *SEC. 20. Section 24356.8 of the Revenue and Taxation Code*
36 *is amended to read:*

37 24356.8. (a) For each taxable year beginning on or after
38 January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of
39 the cost of any Section 24356.8 property as an expense that is not
40 chargeable to the capital account. Any cost so treated shall be

1 allowed as a deduction for the taxable year in which the taxpayer
2 places the Section 24356.8 property in service.

3 (b) (1) An election under this section for any taxable year
4 shall meet both of the following requirements:

5 (A) Specify the items of Section 24356.8 property to which
6 the election applies and the portion of the cost of each of those
7 items that is to be taken into account under subdivision (a).

8 (B) Be made on the taxpayer's return of the tax imposed by
9 this part for the taxable year.

10 (2) Any election made under this section, and any
11 specification contained in that election, may not be revoked
12 except with the consent of the Franchise Tax Board.

13 (c) (1) For purposes of this section, "Section 24356.8
14 property" means any recovery property that is:

15 (A) Section 1245 property (as defined in Section 1245(a)(3) of
16 the Internal Revenue Code).

17 (B) Purchased by the taxpayer for exclusive use in a trade or
18 business conducted within a LAMBRA.

19 (C) Purchased before the date the LAMBRA designation
20 expires, is no longer binding, or becomes inoperative.

21 (2) For purposes of paragraph (1), "purchase" means any
22 acquisition of property, but only if all of the following apply:

23 (A) The property is not acquired from a person whose
24 relationship to the person acquiring it would result in the
25 disallowance of losses under Section 267 or 707(b) of the
26 Internal Revenue Code (but, in applying Sections 267(b) and
27 267(c) of the Internal Revenue Code for purposes of this section,
28 Section 267(c)(4) of the Internal Revenue Code shall be treated
29 as providing that the family of an individual shall include only
30 his or her spouse, ancestors, and lineal descendants).

31 (B) The property is not acquired by one component member of
32 an affiliated group from another component member of the same
33 affiliated group.

34 (C) The basis of the property in the hands of the person
35 acquiring it is not determined in whole or in part by reference to
36 the adjusted basis of that property in the hands of the person from
37 whom acquired.

38 (3) For purposes of this section, the cost of property does not
39 include so much of the basis of that property as is determined by

1 reference to the basis of other property held at any time by the
2 person acquiring that property.

3 (4) This section shall not apply to any property for which the
4 taxpayer may not make an election for the taxable year under
5 Section 179 of the Internal Revenue Code because of the
6 provisions of Section 179(d) of the Internal Revenue Code.

7 (5) For purposes of subdivision (b), both of the following
8 apply:

9 (A) All members of an affiliated group shall be treated as one
10 taxpayer.

11 (B) The taxpayer shall apportion the dollar limitation
12 contained in subdivision (f) among the component members of
13 the affiliated group in whatever manner the board shall by
14 regulations prescribe.

15 (6) For purposes of paragraphs (2) and (5), “affiliated group”
16 has the meaning assigned to it by Section 1504 of the Internal
17 Revenue Code, except that, for these purposes, the phrase “more
18 than 50 percent” shall be substituted for the phrase “at least 80
19 percent” each place it appears in Section 1504(a) of the Internal
20 Revenue Code.

21 (7) This section shall not apply to any property described in
22 Section 168(f) of the Internal Revenue Code.

23 (8) In the case of an S corporation, the dollar limitation
24 contained in subdivision (f) shall be applied at the entity level
25 and at the shareholder level.

26 (d) For purposes of this section:

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

30 (2) “Taxpayer” means a corporation that conducts a trade or
31 business within a LAMBRA and, for the first two taxable years,
32 has a net increase in jobs (defined as 2,000 paid hours per
33 employee per year) of one or more employees in the 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
37 employed in this state in the taxable year prior to commencing
38 business operations in the LAMBRA from the total number of
39 full-time employees the taxpayer employed in this state during
40 the second taxable year after commencing business operations in

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

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

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

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

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

23 (e) Any taxpayer who elects to be subject to this section shall
24 not be entitled to claim additional depreciation pursuant to
25 Section 24356 with respect to any property that constitutes
26 Section 24356.8 property.

27 (f) The aggregate cost of all Section 24356.8 property that
28 may be taken into account under subdivision (a) for any taxable
29 year shall not exceed ~~the following applicable amounts for the~~
30 ~~taxable year of the designation of the relevant LAMBRA and~~
31 ~~taxable years thereafter: one hundred thousand dollars~~
32 ~~(\$100,000).~~

33		
34		The applicable
35		amount is:
36		
37	Taxable year of designation.....	\$100,000
38	1st taxable year thereafter.....	100,000
39	2nd taxable year thereafter.....	-75,000
40	3rd taxable year thereafter.....	-75,000

1		The applicable
2		amount is:
3	Each taxable year thereafter.....	-50,000

4
5 (g) This section shall apply only to property that is used
6 exclusively in a trade or business conducted within a LAMBRA.

7 (h) (1) Any amounts deducted under subdivision (a) with
8 respect to property that ceases to be used in the trade or business
9 within a LAMBRA at any time before the close of the second
10 taxable year after the property was placed in service shall be
11 included in income for that year.

12 (2) At the close of the second taxable year, if the taxpayer has
13 not increased the number of its employees as determined by
14 paragraph (2) of subdivision (d), then the amount of the
15 deduction previously claimed shall be added to the taxpayer's net
16 income for the taxpayer's second taxable year.

17 (i) Any taxpayer who elects to be subject to this section shall
18 not be entitled to claim for the same property the deduction under
19 Section 179 of the Internal Revenue Code, relating to an election
20 to expense certain depreciable business assets.

21 *SEC. 21. Section 24384.5 of the Revenue and Taxation Code*
22 *is amended to read:*

23 24384.5. (a) There shall be allowed as a deduction the
24 amount of net interest received by the taxpayer in payment of
25 indebtedness of a person or entity engaged in a trade or business
26 located in an enterprise zone.

27 (b) No deduction shall be allowed under this section unless at
28 the time the indebtedness is incurred each of the following
29 requirements are met:

30 (1) The trade or business *qualifying the lender for the*
31 *deduction is physically located—solely within an enterprise zone.*
32 *Debtors physically located within and outside the enterprise zone*
33 *shall not qualify the lender for the deduction for loans made*
34 *within the zone.*

35 (2) The indebtedness is incurred solely in connection with
36 activity within the enterprise zone. *Lenders shall verify and*
37 *document that the proceeds from loans made to taxpayers in the*
38 *enterprise zone are spent within the enterprise zone.*

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

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

4 *SEC. 22. Section 24416.2 of the Revenue and Taxation Code*
5 *is amended to read:*

6 24416.2. (a) The term “qualified taxpayer” as used in Section
7 24416.1 includes a corporation engaged in the conduct of a trade
8 or business within an enterprise zone designated pursuant to
9 Chapter 12.8 (commencing with Section 7070) of Division 7 of
10 Title 1 of the Government Code. For purposes of this
11 subdivision, all of the following shall apply:

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year and a net operating loss for any
14 taxable year beginning on or after the date that the area in which
15 the taxpayer conducts a trade or business is designated as an
16 enterprise zone shall be a net operating loss carryover to each of
17 the ~~15~~ 17 taxable years following the taxable year of loss.

18 (2) For purposes of this subdivision:

19 (A) “Net operating loss” means the loss determined under
20 Section 172 of the Internal Revenue Code, as modified by
21 Section 24416.1, attributable to the taxpayer’s business activities
22 within the enterprise zone (as defined in Chapter 12.8
23 (commencing with Section 7070) of Division 7 of Title 1 of the
24 Government Code) prior to the enterprise zone expiration date.
25 ~~That attributable loss shall be determined in accordance with~~
26 ~~Chapter 17 (commencing with Section 25101), modified for~~
27 ~~purposes of this subdivision as follows:~~

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

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

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

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

1 ~~accordance with Chapter 17 (commencing with Section 25101).~~
2 ~~That business income shall be further apportioned to the~~
3 ~~enterprise zone in accordance with Article 2 (commencing with~~
4 ~~Section 25120) of Chapter 17, modified for purposes of this~~
5 ~~subdivision as follows:~~

6 ~~(i) Business income shall be apportioned to the enterprise zone~~
7 ~~by multiplying the total California business income of the~~
8 ~~taxpayer by a fraction, the numerator of which is the property~~
9 ~~factor plus the payroll factor, and the denominator of which is~~
10 ~~two. For purposes of this clause:~~

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

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

22 ~~(ii) If a loss carryover is allowable pursuant to this section for~~
23 ~~any taxable year after the enterprise zone designation has~~
24 ~~expired, the enterprise zone shall be deemed to remain in~~
25 ~~existence for purposes of computing the limitation set forth in~~
26 ~~subparagraph (B) and allowing a net operating loss deduction.~~

27 ~~(D)~~

28 ~~(B) "Enterprise zone expiration date" means the date the~~
29 ~~enterprise zone designation expires, is no longer binding, or~~
30 ~~becomes inoperative.~~

31 ~~(3) The changes made to this subdivision by the act adding~~
32 ~~this paragraph shall apply to taxable years beginning on or after~~
33 ~~January 1, 1998.~~

34 ~~(b) A taxpayer who qualifies as a "qualified taxpayer" under~~
35 ~~one or more sections shall, for the taxable year of the net~~
36 ~~operating loss and any taxable year to which that net operating~~
37 ~~loss may be carried, designate on the original return filed for~~
38 ~~each year the section which applies to that taxpayer with respect~~
39 ~~to that net operating loss. If the taxpayer is eligible to qualify~~

1 under more than one section, the designation is to be made after
2 taking into account subdivision (c).

3 (c) If a taxpayer is eligible to qualify under this section and
4 either Section 24416.4, 24416.5, or 24416.6 as a “qualified
5 taxpayer,” with respect to a net operating loss in a taxable year,
6 the taxpayer shall designate which section is to apply to the
7 taxpayer.

8 (d) Notwithstanding Section 24416, the amount of the loss
9 determined under this section, or Section 24416.4, 24416.5, or
10 24416.6 shall be the only net operating loss allowed to be carried
11 over from that taxable year and the designation under subdivision
12 (b) shall be included in the election under Section 24416.1.

13 *SEC. 23. Section 24416.5 of the Revenue and Taxation Code*
14 *is amended to read:*

15 24416.5. (a) For each taxable year beginning on or after
16 January 1, 1995, the term “qualified taxpayer” as used in Section
17 24416.1 includes a taxpayer engaged in the conduct of a trade or
18 business within a LAMBRA. For purposes of this subdivision, all
19 of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any taxable year and, except as provided in
22 subparagraph (B), a net operating loss for any taxable year
23 beginning on or after the date the area in which the taxpayer
24 conducts a trade or business is designated a LAMBRA shall be a
25 net operating loss carryover to each following taxable year that
26 ends before the LAMBRA expiration date or to each of the ~~15~~ 17
27 taxable years following the taxable year of loss, if longer.

28 (2) In the case of a financial institution to which Section 585,
29 586, or 593 of the Internal Revenue Code applies, a net operating
30 loss for any taxable year beginning on or after January 1, 1984,
31 shall be a net operating loss carryover to each of the five years
32 following the taxable year of the loss. Subdivision (b) of Section
33 24416.1 shall not apply.

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

37 (4) “Taxpayer” means a bank or corporation that conducts a
38 trade or business within a LAMBRA and, for the first two
39 taxable years, has a net increase in jobs (defined as 2,000 paid
40 hours per employee per year) of one or more employees in the

1 LAMBRA and this state. For purposes of this paragraph, all of
2 the following shall apply:

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

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

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

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

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

32 (5) “Net operating loss” means the loss determined under
33 Section 172 of the Internal Revenue Code, as modified by
34 Section 24416.1, attributable to the taxpayer’s business activities
35 within a LAMBRA prior to the LAMBRA expiration date. ~~The~~
36 ~~attributable loss shall be determined in accordance with Chapter~~
37 ~~17 (commencing with Section 25101), modified for purposes of~~
38 ~~this section as follows:~~

39 (A) ~~Loss shall be apportioned to a LAMBRA by multiplying~~
40 ~~total loss from the business by a fraction, the numerator of which~~

1 is the property factor plus the payroll factor, and the denominator
2 of which is 2.

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

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

7 ~~(7) Attributable income is that portion of the taxpayer’s~~
8 ~~California source business income that is apportioned to the~~
9 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
10 ~~attributable to sources in this state first shall be determined in~~
11 ~~accordance with Chapter 17 (commencing with Section 25101).~~
12 ~~That business income shall be further apportioned to the~~
13 ~~LAMBRA in accordance with Article 2 (commencing with~~
14 ~~Section 25120) of Chapter 17, modified as follows:~~

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

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

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

31 ~~(B) If a loss carryover is allowable pursuant to this section for~~
32 ~~any taxable year after the LAMBRA designation has expired, the~~
33 ~~LAMBRA shall be deemed to remain in existence for purposes~~
34 ~~of computing the limitation specified in subparagraph (D) and~~
35 ~~allowing a net operating loss deduction.~~

36 ~~(8)~~

37 ~~(6) “LAMBRA expiration date” means the date the~~
38 ~~LAMBRA designation expires, is no longer binding, or becomes~~
39 ~~inoperative pursuant to Section 7110 of the Government Code.~~

1 (b) A taxpayer who qualifies as a “qualified taxpayer” under
2 one or more sections shall, for the taxable year of the net
3 operating loss and any taxable year to which that net operating
4 loss may be carried, designate on the original return filed for
5 each year the section that applies to that taxpayer with respect to
6 that net operating loss. If the taxpayer is eligible to qualify under
7 more than one section, the designation is to be made after taking
8 into account subdivision (c).

9 (c) If a taxpayer is eligible to qualify under this section and
10 either Section 24416.2, 24416.4, or 24416.6 as a “qualified
11 taxpayer,” with respect to a net operating loss in a taxable year,
12 the taxpayer shall designate which section is to apply to the
13 taxpayer.

14 (d) Notwithstanding Section 24416, the amount of the loss
15 determined under this section or Section 24416.2, 24416.4, or
16 24416.6 shall be the only net operating loss allowed to be carried
17 over from that taxable year and the designation under subdivision
18 (b) shall be included in the election under Section 24416.1.

19 (e) This section shall apply to taxable years beginning on and
20 after January 1, 1998.

21 *SEC. 24. Section 24416.6 of the Revenue and Taxation Code*
22 *is amended to read:*

23 24416.6. (a) For each taxable year beginning on or after
24 January 1, 1998, the term “qualified taxpayer” as used in Section
25 24416.1 includes a corporation that meets both of the following:

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

30 (2) Is engaged in those lines of business described in Codes
31 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
32 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
33 of the Standard Industrial Classification (SIC) Manual published
34 by the United States Office of Management and Budget, 1987
35 edition. In the case of any pass-through entity, the determination
36 of whether a taxpayer is a qualified taxpayer shall be made at the
37 entity level.

38 (b) For purposes of subdivision (a), all of the following shall
39 apply:

1 (1) A net operating loss shall not be a net operating loss
2 carryback for any taxable year and a net operating loss for any
3 taxable year beginning on or after the date that the area in which
4 the qualified taxpayer conducts a trade or business is designated
5 as a targeted tax area shall be a net operating loss carryover to
6 each of the ~~15~~ 17 taxable years following the taxable year of loss.

7 (2) “Net operating loss” means the loss determined under
8 Section 172 of the Internal Revenue Code, as modified by
9 Section 24416.1, attributable to the qualified taxpayer’s business
10 activities within the targeted tax area (as defined in Chapter
11 12.93 (commencing with Section 7097) of Division 7 of Title 1
12 of the Government Code) prior to the targeted tax area expiration
13 date. ~~That attributable loss shall be determined in accordance~~
14 ~~with Chapter 17 (commencing with Section 25101), modified for~~
15 ~~purposes of this section as follows:~~

16 (A) ~~Loss shall be apportioned to the targeted tax area by~~
17 ~~multiplying total loss from the business by a fraction, the~~
18 ~~numerator of which is the property factor plus the payroll factor,~~
19 ~~and the denominator of which is 2.~~

20 (B) ~~“The targeted tax area” shall be substituted for “this state.”~~

21 (3) ~~A net operating loss carryover shall be a deduction only~~
22 ~~with respect to the qualified taxpayer’s business income~~
23 ~~attributable to the targeted tax area as defined in Chapter 12.93~~
24 ~~(commencing with Section 7097) of Division 7 of Title 1 of the~~
25 ~~Government Code.~~

26 (4) ~~Attributable income is that portion of the taxpayer’s~~
27 ~~California source business income that is apportioned to the~~
28 ~~targeted tax area. For that purpose, the taxpayer’s business~~
29 ~~income attributable to sources in this state first shall be~~
30 ~~determined in accordance with Chapter 17 (commencing with~~
31 ~~Section 25101). That business income shall be further~~
32 ~~apportioned to the targeted tax area in accordance with Article 2~~
33 ~~(commencing with Section 25120) of Chapter 17, modified for~~
34 ~~purposes of this subdivision as follows:~~

35 (A) ~~Business income shall be apportioned to the targeted tax~~
36 ~~area by multiplying the total California business income of the~~
37 ~~taxpayer by a fraction, the numerator of which is the property~~
38 ~~factor plus the payroll factor, and the denominator of which is~~
39 ~~two. For purposes of this clause:~~

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

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

12 ~~(B) If a loss carryover is allowable pursuant to this subdivision~~
13 ~~for any taxable year after the targeted tax area expiration date, the~~
14 ~~targeted tax area designation shall be deemed to remain in~~
15 ~~existence for purposes of computing the limitation specified in~~
16 ~~subparagraph (B) and allowing a net operating loss deduction.~~

17 ~~(5)~~

18 (3) "Targeted tax area expiration date" means the date the
19 targeted tax area designation expires, is revoked, is no longer
20 binding, or becomes inoperative.

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

29 (d) If a taxpayer is eligible to qualify under this section and
30 either Section 24416.2, 24416.4, or 24416.5 as a "qualified
31 taxpayer," with respect to a net operating loss in a taxable year,
32 the taxpayer shall designate which section is to apply to the
33 taxpayer.

34 (e) Notwithstanding Section 24416, the amount of the loss
35 determined under this section or Section 24416.2, 24416.4, or
36 24416.5 shall be the only net operating loss allowed to be carried
37 over from that taxable year and the designation under subdivision
38 (c) shall be included in the election under Section 24416.1.

39 (f) This section shall apply to taxable years beginning on or
40 after January 1, 1998.

1 *SEC. 25. It is the intent of the Legislature that no inference be*
2 *drawn in connection with any matter governed by Sections*
3 *17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8,*
4 *23634, and 23646 of the Revenue and Taxation Code, from the*
5 *period to which the amendments made to those sections by this*
6 *act apply, or in connection with any matter governed by Sections*
7 *17053.76 and 23622.9 of the Revenue and Taxation Code, as*
8 *added by this act, for any taxable year beginning before January*
9 *1, 2007.*

10 ~~SECTION 1. The Legislature finds and declares all of the~~
11 ~~following:~~

12
13
14 **All matter omitted in this version of the bill**
15 **appears in the bill amended in the Senate,**
16 **August 7, 2006. (JR11)**
17