

AMENDED IN SENATE JUNE 24, 2013

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 93**

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**Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Campos, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Skinner, Stone, and Ting)**

January 10, 2013

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An act to amend Section 13073.5 of, ~~and~~ to add Sections 7090, 7099.5, and 7119 to, *and to repeal Chapter 12.8 (commencing with Section 7070), Chapter 12.93 (commencing with Section 7097), and Chapter 12.97 (commencing with Section 7105) of Division 7 of Title 1 of*, the Government Code, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6 of, to add Section 18410.2 to, to add and repeal Sections 6377.1, 17053.73, 17059.2, 23626, and 23689 of, and ~~to repeal and amend~~ *repeal, amend, and repeal* Sections 17053.80 and 23623 of, the Revenue and Taxation Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 93, as amended, Committee on Budget. Economic development: taxation: credits, deductions, and net operating losses.

(1) Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, manufacturing enhancement areas, targeted tax areas, and local agency military base recovery areas, or LAMBRAAs. Existing law allows various incentives to businesses operating in these areas.

This bill would repeal the provisions authorizing those designations on January 1, 2014.

(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including hiring credits and sales and use tax credits for taxpayers within the specified economic development areas, and a hiring credit for taxpayers, other than those allowed a credit with respect to operating in the specified economic development areas. Those laws, for taxpayers engaged in business within specified economic development areas, authorize specified net operating loss carryovers and expense deductions in computing income subject to taxes. Those laws also authorize an interest deduction for interest received in payment of indebtedness of a person engaged in business in an enterprise zone.

This bill generally would make these provisions inoperative for taxable years beginning on or after January 1, 2014, and repeal these provisions on either December 1, 2014, or December 1, 2019, as provided. This bill would limit the application of sales and use tax credits to sales and use tax paid for purchases before January 1, 2014, and limit the carryover of those credits to the 5 succeeding years, limit the application of the hiring credits to employees hired within a specified period before January 1, 2014, and limit the interest deduction to interest received before January 1, 2014.

This bill would also allow a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee as established by this bill, and based on specified factors, ~~including, but not limited to,~~ *including* the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. The bill would limit the aggregate amount of credits allowed to taxpayers to a specified sum per fiscal year.

This bill would, under both laws for taxable years beginning on or after ~~January~~ *July* 1, 2014, and before January 1, 2019, allow a credit

against tax for portions of the wages paid by a taxpayer engaged in a trade or business within a designated census tract, as defined, or a former enterprise zone to certain full-time employees who provide services for that taxpayer in connection with that trade or business. The bill would require the Population Research Unit in the Department of Finance to identify designated census tracts in accordance with certain criteria.

(3) Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from those taxes.

The bill would exempt from those taxes, on and after January 1, 2014, and before January 1, 2019, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for use primarily in manufacturing, processing, refining, fabricating, or recycling of property, as specified; qualified tangible personal property purchased for use by a contractor for specified purposes, as provided; and qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state taxes from which revenues are deposited into the Local Public Safety Fund, the Education Protection Account, the Local Revenue Fund, the Fiscal Recovery Fund, or the Local Revenue Fund 2011.

(4) This bill would appropriate up to \$600,000 for allocation to a committee and departments, as specified, by the Director of Finance in furtherance of the objectives of this bill, as provided.

(5) This bill declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3     (a) *California’s economic development policy should be to*
- 4 *create good jobs with middle-class wages and benefits.*
- 5     (b) *State assistance regarding employment should be focused*
- 6 *upon those individuals facing barriers to employment, and state*
- 7 *tax policy should encourage businesses to invest in California.*
- 8     (c) *The state’s largest economic development program, the*
- 9 *enterprise zone program, is in need of comprehensive reform. The*
- 10 *Public Policy Institute of California released a study in 2009*
- 11 *finding that enterprise zones have “no statistically significant*
- 12 *effect on either employment levels or employment growth rates.”*
- 13 *Furthermore, the Legislative Analyst’s Office has issued several*
- 14 *reports concluding that enterprise zones do not create jobs, finding*
- 15 *that the enterprise zone program is “expensive and not strongly*
- 16 *effective.”*
- 17     (d) *It is the intent of the Legislature to reform state tax incentives*
- 18 *for the hiring of individuals in enterprise zones to refocus those*
- 19 *tax incentives on creating new, good jobs within those zones and*
- 20 *within other areas of the state suffering from high rates of*
- 21 *unemployment and poverty.*
- 22     (e) *It is the intent of the Legislature to exempt manufacturing*
- 23 *equipment from state sales and use taxes in order to make*
- 24 *California more competitive in attracting new businesses to the*
- 25 *state, and to bring California in line with the 48 other states that*
- 26 *exempt manufacturing equipment from sales and use tax.*
- 27     (f) *It is the intent of the Legislature in appropriating funds*
- 28 *pursuant to this act to provide the California Competes Tax Credit*
- 29 *Committee, and the departments that are required to administer*
- 30 *this act, with an important tool to attract and retain high-value*
- 31 *employers. The program created by this act will allow businesses*
- 32 *to publicly apply for tax credits allowed on the basis of job creation*
- 33 *and retention standards. This program is intended to be a model*
- 34 *of transparency and accountability for the state’s job creation*

1 *efforts in that performance measurements will ensure that the*  
2 *effective use of taxpayer dollars is maximized.*

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 7090 is added to the Government Code, to  
5 read:

6 7090. Chapter 12.8 (commencing with Section 7070) is  
7 repealed on January 1, 2014.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 7099.5 is added to the Government Code, to  
10 read:

11 7099.5. Chapter 12.93 (commencing with Section 7097) is  
12 repealed on January 1, 2014.

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 7119 is added to the Government Code, to  
15 read:

16 7119. Chapter 12.97 (commencing with Section 7105) is  
17 repealed on January 1, 2014.

18 ~~SEC. 4.~~

19 *SEC. 5.* Section 13073.5 of the Government Code is amended  
20 to read:

21 13073.5. The Legislature finds and declares that: (1) population  
22 size and distribution patterns in California exert a major influence  
23 on the physical, social, and economic structure of the state and on  
24 the quality of the environment generally; (2) sound and current  
25 data and methods to estimate population trends are necessary to  
26 enable state, regional, and local agencies to plan and function  
27 properly; and (3) there is a critical need for a proper study of the  
28 implications of present and future population trends in order that  
29 state, regional, and local agencies might develop or reexamine  
30 policies and actions based thereon.

31 The Population Research Unit shall:

32 (a) Develop basic demographic data and statistical compilations,  
33 which may include a current population survey and a mid-decade  
34 census.

35 (b) Design and test methods of research and data collection.

36 (c) Conduct local population estimates as required by law.

37 (d) Validate all official census data and population statistics.

38 (e) Analyze and prepare projections of enrollments in public  
39 schools, colleges, and universities.

- 1 (f) Analyze governmental records to establish characteristics  
2 of migration and distribution.
- 3 (g) Publish annual estimates of the population of the state and  
4 its composition.
- 5 (h) Prepare short- and long-range projections of population and  
6 its composition.
- 7 (i) Provide advisory services to state agencies and other levels  
8 of government.
- 9 (j) Evaluate and recommend data requirements for determining  
10 population and population growth.
- 11 (k) Analyze the demographic features of the causes and  
12 consequences of patterns of natural increase or decrease, migration,  
13 and population concentration within the state.
- 14 (l) Assess the need for population data required for determining  
15 the allocation of federal, state, and other subvention revenues.
- 16 (m) Request and obtain from any department, division,  
17 commission, or other agency of the state all assistance and  
18 information to enable the unit to effectively carry out the provisions  
19 of this section.
- 20 (n) Cooperate with the Office of Planning and Research with  
21 respect to functions involving mutual areas of concern relating to  
22 demography and state planning.
- 23 (o) Enter into agreements to carry out the purposes of this  
24 section, including the application for and acceptance of federal  
25 funds or private foundation grants for demographic studies.
- 26 (p) Act as primary state government liaison with the Census  
27 Bureau, United States Department of Commerce, in the acquisition  
28 and distribution of census data and related documentation to state  
29 agencies.
- 30 (q) Administer, with other agencies, a State Census Data Center  
31 which will be responsible for acquiring decennial and other census  
32 data from the Bureau of the Census, and for providing necessary  
33 information to the Legislature and to the executive branch and for  
34 seeking to ensure the availability of census information to local  
35 governments. The unit and the Office of Planning and Research  
36 shall be responsible for designating subcenters of the State Census  
37 Data Center as needed. The unit will provide materials to  
38 subcenters of the State Census Data Center, will coordinate the  
39 efforts of the subcenters to avoid duplication and may consult in

1 the design of standard reports to be offered by the center and its  
2 subcenters.

3 (r) Coordinate with the Office of Planning and Research  
4 Environmental Data Center for the purposes of ensuring  
5 consistency and compatibility of data products, improving public  
6 access to data, ensuring the consistent interpretation of data, and  
7 avoiding duplication of functions.

8 (s) (1) Determine those census tracts that are to be designated  
9 census tracts based on data from the five-year American  
10 Community Survey (ACS). The census tracts that are within the  
11 highest quartile for both civilian unemployment and poverty  
12 statistics, as determined in paragraphs (2) and (3), shall be  
13 determined to be designated census tracts as described in paragraph  
14 (7) of subdivision (b) of Section 17053.73, and paragraph (7) of  
15 subdivision (b) of Section 23626 of the Revenue and Taxation  
16 Code.

17 (2) To determine the census tracts that are within the highest  
18 quartile of census tracts with the highest civilian unemployment,  
19 the census tracts shall be sorted by the respective civilian  
20 unemployment rate of each in ascending order, or from the lowest  
21 (0 percent) to the highest (100 percent) according to the following:

22 (A) Census tracts without a civilian labor force shall be  
23 excluded.

24 (B) After ordering the census tracts by the civilian  
25 unemployment rate of each, the census tracts shall be divided into  
26 four equal groups or quartiles as follows:

27 (i) The first quartile shall represent the lowest fourth of the  
28 census tracts (1 percent to less than 26 percent).

29 (ii) The second quartile shall represent the second fourth (26  
30 percent to less than 51 percent).

31 (iii) The third quartile shall represent the third fourth (51 percent  
32 to less than 76 percent).

33 (iv) The fourth quartile shall represent the fourth fourth (76  
34 percent to 100 percent, inclusive).

35 (C) The last or highest quartile shall represent the top 25 percent  
36 of the census tracts with the highest civilian unemployment rates.

37 (3) To determine the census tracts that are within the quartile  
38 of census tracts with the highest poverty, the census tracts shall  
39 be sorted by the respective percentage of population below poverty

1 of each in ascending order, or from the lowest (0 percent) to the  
2 highest (100 percent) according to the following:

3 (A) Consistent with poverty statistics in the ACS, which adhere  
4 to the standards specified by the federal Office of Management  
5 and Budget in Statistical Policy Directive 14, the poverty thresholds  
6 as specified by the United States Census Bureau shall be used to  
7 determine those individuals below poverty.

8 (B) To determine those individuals below poverty, different  
9 thresholds, as specified by the United States Census Bureau, shall  
10 be applied to families, people living alone, or people living with  
11 nonrelatives (unrelated individuals).

12 (C) If a family's total income is less than the dollar value of the  
13 appropriate threshold, then that family and every individual in it  
14 shall be considered to be below poverty.

15 (D) If an unrelated individual's total income is less than the  
16 appropriate threshold, then that individual shall be considered to  
17 be below poverty.

18 (E) Poverty status shall be determined for all people except  
19 institutionalized people, people in military group quarters, people  
20 in college dormitories, and unrelated individuals under 15 years  
21 of age.

22 (F) Census tracts that do not have a population for whom poverty  
23 status is determined shall be excluded.

24 (G) After ordering the census tracts by the respective percent  
25 below poverty of each, the census tracts shall be divided into four  
26 equal quartiles as follows:

27 (i) The first quartile shall represent the lowest fourth of the  
28 census tracts (1 percent to less than 26 percent).

29 (ii) The second quartile shall represent the second fourth (26  
30 percent to less than 51 percent).

31 (iii) The third quartile shall represent the third fourth (51 percent  
32 to less than 76 percent).

33 (iv) The fourth quartile shall represent the fourth fourth (76  
34 percent to 100 percent, inclusive).

35 (H) The last or highest quartile shall represent the top 25 percent  
36 of the census tracts with the highest percentage of population below  
37 poverty.

38 (4) To determine the census tracts that are within the lowest  
39 quartile of census tracts with the lowest civilian unemployment  
40 and poverty, the census tracts shall be sorted by the respective



1 civilian unemployment and poverty rates of each in ascending  
2 order, or from the lowest (0 percent) to the highest (100 percent)  
3 according to the following:

4 (A) Census tracts without a civilian labor force are to be  
5 excluded.

6 (B) After ordering the census tracts by the civilian  
7 unemployment and poverty rates of each, the census tracts shall  
8 be divided into four equal groups or quartiles as follows:

9 (i) The first quartile shall represent the lowest fourth of the  
10 census tracts (1 percent to less than 26 percent).

11 (ii) The second quartile shall represent the second fourth (26  
12 percent to less than 51 percent).

13 (iii) The third quartile shall represent the third fourth (51 percent  
14 to less than 76 percent).

15 (iv) The fourth quartile shall represent the fourth fourth (76  
16 percent to 100 percent, inclusive).

17 (C) The first or lowest quartile shall represent the bottom 25  
18 percent of the census tracts with the lowest civilian unemployment  
19 and poverty rates.

20 ~~SEC. 5.~~

21 *SEC. 6.* Section 6377.1 is added to the Revenue and Taxation  
22 Code, to read:

23 6377.1. (a) Except as provided in subdivision (e), on or after  
24 ~~January~~ July 1, 2014, and before January 1, 2019, there are  
25 exempted from the taxes imposed by this part the gross receipts  
26 from the sale of, and the storage, use, or other consumption in this  
27 state of, any of the following:

28 (1) Qualified tangible personal property purchased for use by  
29 a qualified person to be used primarily in any stage of the  
30 manufacturing, processing, refining, fabricating, or recycling of  
31 tangible personal property, beginning at the point any raw materials  
32 are received by the qualified person and introduced into the process  
33 and ending at the point at which the manufacturing, processing,  
34 refining, fabricating, or recycling has altered tangible personal  
35 property to its completed form, including packaging, if required.

36 (2) Qualified tangible personal property purchased for use by  
37 a qualified person to be used primarily in research and  
38 development.

39 (3) Qualified tangible personal property purchased for use by  
40 a qualified person to be used primarily to maintain, repair, measure,

1 or test any qualified tangible personal property described in  
2 paragraph (1) or (2).

3 (4) Qualified tangible personal property purchased for use by  
4 a contractor purchasing that property for use in the performance  
5 of a construction contract for the qualified person, that will use  
6 that property as an integral part of the manufacturing, processing,  
7 refining, fabricating, or recycling process, or as a research or  
8 storage facility for use in connection with those processes.

9 (b) For purposes of this section:

10 (1) “Fabricating” means to make, build, create, produce, or  
11 assemble components or tangible personal property to work in a  
12 new or different manner.

13 (2) “Manufacturing” means the activity of converting or  
14 conditioning tangible personal property by changing the form,  
15 composition, quality, or character of the property for ultimate sale  
16 at retail or use in the manufacturing of a product to be ultimately  
17 sold at retail. Manufacturing includes any improvements to tangible  
18 personal property that result in a greater service life or greater  
19 functionality than that of the original property.

20 (3) “Primarily” means 50 percent or more of the time.

21 (4) “Process” means the period beginning at the point at which  
22 any raw materials are received by the qualified person and  
23 introduced into the manufacturing, processing, refining, fabricating,  
24 or recycling activity of the qualified person and ending at the point  
25 at which the manufacturing, processing, refining, fabricating, or  
26 recycling activity of the qualified person has altered tangible  
27 personal property to its completed form, including packaging, if  
28 required. Raw materials shall be considered to have been  
29 introduced into the process when the raw materials are stored on  
30 the same premises where the qualified person’s manufacturing,  
31 processing, refining, fabricating, or recycling activity is conducted.  
32 Raw materials that are stored on premises other than where the  
33 qualified person’s manufacturing, processing, refining, fabricating,  
34 or recycling activity is conducted shall not be considered to have  
35 been introduced into the manufacturing, processing, refining,  
36 fabricating, or recycling process.

37 (5) “Processing” means the physical application of the materials  
38 and labor necessary to modify or change the characteristics of  
39 tangible personal property.

1 (6) (A) “Qualified person” means a person that is primarily  
2 engaged in those lines of business described in Codes 3111 to  
3 3399, inclusive, 541711, or 541712 of the North American Industry  
4 Classification System (NAICS) published by the United States  
5 Office of Management and Budget (OMB), 2012 edition.

6 (B) Notwithstanding subparagraph (A), “qualified person” shall  
7 not include either of the following:

8 (i) An apportioning trade or business that is required to apportion  
9 its business income pursuant to subdivision (b) of Section 25128.

10 (ii) A trade or business conducted wholly within this state that  
11 would be required to apportion its business income pursuant to  
12 subdivision (b) of Section 25128 if it were subject to apportionment  
13 pursuant to Section 25101.

14 (7) (A) “Qualified tangible personal property” includes, but is  
15 not limited to, all of the following:

16 (i) Machinery and equipment, including component parts and  
17 contrivances such as belts, shafts, moving parts, and operating  
18 structures.

19 (ii) Equipment or devices used or required to operate, control,  
20 regulate, or maintain the machinery, including, but not limited to,  
21 computers, data-processing equipment, and computer software,  
22 together with all repair and replacement parts with a useful life of  
23 one or more years therefor, whether purchased separately or in  
24 conjunction with a complete machine and regardless of whether  
25 the machine or component parts are assembled by the qualified  
26 person or another party.

27 (iii) Tangible personal property used in pollution control that  
28 meets standards established by this state or any local or regional  
29 governmental agency within this state.

30 (iv) Special purpose buildings and foundations used as an  
31 integral part of the manufacturing, processing, refining, fabricating,  
32 or recycling process, or that constitute a research or storage facility  
33 used during those processes. Buildings used solely for warehousing  
34 purposes after completion of those processes are not included.

35 (B) “Qualified tangible personal property” shall not include any  
36 of the following:

37 (i) Consumables with a useful life of less than one year.

38 (ii) Furniture, inventory, and equipment used in the extraction  
39 process, or equipment used to store finished products that have

1 completed the manufacturing, processing, refining, fabricating, or  
2 recycling process.

3 (iii) Tangible personal property used primarily in administration,  
4 general management, or marketing.

5 (8) “Refining” means the process of converting a natural  
6 resource to an intermediate or finished product.

7 (9) “Research and development” means those activities that are  
8 described in Section 174 of the Internal Revenue Code or in any  
9 regulations thereunder.

10 (10) “Useful life” for tangible personal property that is treated  
11 as having a useful life of one or more years for state income or  
12 franchise tax purposes shall be deemed to have a useful life of one  
13 or more years for purposes of this section. “Useful life” for tangible  
14 personal property that is treated as having a useful life of less than  
15 one year for state income or franchise tax purposes shall be deemed  
16 to have a useful life of less than one year for purposes of this  
17 section.

18 (c) An exemption shall not be allowed under this section unless  
19 the purchaser furnishes the retailer with an exemption certificate,  
20 completed in accordance with any instructions or regulations as  
21 the board may prescribe, and the retailer retains the exemption  
22 certificate in its records and furnishes it to the board upon request.

23 (d) (1) Notwithstanding the Bradley-Burns Uniform Local  
24 Sales and Use Tax Law (Part 1.5 (commencing with Section 7200))  
25 and the Transactions and Use Tax Law (Part 1.6 (commencing  
26 with Section 7251)), the exemption established by this section  
27 shall not apply with respect to any tax levied by a county, city, or  
28 district pursuant to, or in accordance with, either of those laws.

29 (2) Notwithstanding subdivision (a), the exemption established  
30 by this section shall not apply with respect to any tax levied  
31 pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant  
32 to Section 35 of Article XIII of the California Constitution, or any  
33 tax levied pursuant to Section 6051 or 6201 that is deposited in  
34 the State Treasury to the credit of the Local Revenue Fund 2011  
35 pursuant to Section 6051.15 or 6201.15.

36 (e) (1) ~~Notwithstanding subdivision (a), the~~ *The* exemption  
37 provided by this section shall not apply to either of the following:

38 (A) Any tangible personal property purchased during any  
39 calendar year that exceeds two hundred million dollars  
40 (\$200,000,000) of purchases of qualified tangible personal property

1 for which an exemption is claimed by a qualified person under  
2 this section. For purposes of this subparagraph, in the case of a  
3 qualified person that is required to be included in a combined report  
4 under Section 25101 or authorized to be included in a combined  
5 report under Section 25101.15, the aggregate of all purchases of  
6 qualified personal property for which an exemption is claimed  
7 pursuant to this section by all persons that are required or  
8 authorized to be included in a combined report shall not exceed  
9 two hundred million dollars (\$200,000,000) in any calendar year.

10 (B) The sale or storage, use, or other consumption of property  
11 that, within one year from the date of purchase, is removed from  
12 California, converted from an exempt use under subdivision (a)  
13 to some other use not qualifying for exemption, or used in a manner  
14 not qualifying for exemption.

15 (2) If a purchaser certifies in writing to the seller that the tangible  
16 personal property purchased without payment of the tax will be  
17 used in a manner entitling the seller to regard the gross receipts  
18 from the sale as exempt from the sales tax, and *the purchase*  
19 *exceeds the two-hundred-million-dollar (\$200,000,000) limitation*  
20 *of subparagraph (A) of paragraph (1), or within one year from*  
21 *the date of purchase, the purchaser removes that property from*  
22 *California, converts that property for use in a manner not qualifying*  
23 *for the exemption, or uses that property in a manner not qualifying*  
24 *for the exemption, the purchaser shall be liable for payment of*  
25 *sales tax, with applicable interest, as if the purchaser were a retailer*  
26 *making a retail sale of the tangible personal property at the time*  
27 *the tangible personal property is removed, converted, or used, and*  
28 *the sales price of the tangible personal property to the purchaser*  
29 *shall be deemed the gross receipts from that retail sale.*

30 (f) This section shall apply to leases of qualified tangible  
31 personal property classified as “continuing sales” and “continuing  
32 purchases” in accordance with Sections 6006.1 and 6010.1. The  
33 exemption established by this section shall apply to the rentals  
34 payable pursuant to the lease, provided the lessee is a qualified  
35 person and the tangible personal property is used in an activity  
36 described in subdivision (a).

37 (g) (1) *Upon the effective date of this section, the Department*  
38 *of Finance shall estimate the total dollar amount of exemptions*  
39 *that will be taken for each calendar year, or any portion thereof,*  
40 *for which this section provides an exemption.*

1 (2) No later than each March 1 next following a calendar year  
2 for which this section provides an exemption, the board shall  
3 provide to the Joint Legislative Budget Committee a report of the  
4 total dollar amount of exemptions taken under this section for the  
5 immediately preceding calendar year. The report shall compare  
6 the total dollar amount of exemptions taken under this section for  
7 that calendar year with the department's estimate for that same  
8 calendar year. If that total dollar amount taken is less than the  
9 estimate for that calendar year, the report shall identify options  
10 for increasing exemptions taken so as to meet estimated amounts.

11 ~~(g)~~

12 (h) This section is repealed on January 1, 2019.

13 ~~SEC. 6.~~

14 SEC. 7. Section 17053.33 of the Revenue and Taxation Code  
15 is amended to read:

16 17053.33. (a) For each taxable year beginning on or after  
17 January 1, 1998, and before January 1, 2014, there shall be allowed  
18 as a credit against the "net tax" (as defined in Section 17039) for  
19 the taxable year an amount equal to the sales or use tax paid or  
20 incurred during the taxable year by the qualified taxpayer in  
21 connection with the qualified taxpayer's purchase of qualified  
22 property before January 1, 2014.

23 (b) For purposes of this section:

24 (1) "Qualified property" means property that meets all of the  
25 following requirements:

26 (A) Is any of the following:

27 (i) Machinery and machinery parts used for fabricating,  
28 processing, assembling, and manufacturing.

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

31 (iii) Machinery and machinery parts used for either of the  
32 following:

33 (I) Air pollution control mechanisms.

34 (II) Water pollution control mechanisms.

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

38 (v) Motion picture manufacturing equipment central to  
39 production and post production, such as cameras, audio recorders,  
40 and digital image and sound processing equipment.

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

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

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

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

12 (i) Is engaged in a trade or business within a targeted tax area  
13 designated pursuant to Chapter 12.93 (commencing with Section  
14 7097) of Division 7 of Title 1 of the Government Code.

15 (ii) Is engaged in those lines of business described in Codes  
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
18 of the Standard Industrial Classification (SIC) Manual published  
19 by the United States Office of Management and Budget, 1987  
20 edition.

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

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

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

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

1 (e) 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 added  
4 to the credit, if any, in the succeeding five taxable years, if  
5 necessary, until the credit is exhausted. The credit shall be applied  
6 first to the earliest taxable years possible.

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

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

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

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

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



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

6 (4) The portion of any credit remaining, if any, after application  
7 of this subdivision, shall be carried over to succeeding taxable  
8 years, if necessary, until the credit is exhausted, as if it were an  
9 amount exceeding the “net tax” for the taxable year, as provided  
10 in subdivision (e). However, the portion of any credit remaining  
11 for carryover to taxable years beginning on or after January 1,  
12 2014, if any, after application of this subdivision, shall be carried  
13 over only to the succeeding five taxable years if necessary, until  
14 the credit is exhausted, as if it were an amount exceeding the “net  
15 tax” for the taxable year, as provided in subdivision (e).

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

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

25 (i) This section is repealed on December 1, 2014.

26 ~~SEC. 7.~~

27 *SEC. 8.* Section 17053.34 of the Revenue and Taxation Code  
28 is amended to read:

29 17053.34. (a) For each taxable year beginning on or after  
30 January 1, 1998, there shall be allowed a credit against the “net  
31 tax” (as defined in Section 17039) to a qualified taxpayer who  
32 employs a qualified employee in a targeted tax area during the  
33 taxable year. The credit shall be equal to the sum of each of the  
34 following:

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

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

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

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

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

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

4 (iv) Is any of the following:

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

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

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

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

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

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

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

39 (dd) Was self-employed (including farmers and ranchers) and  
40 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 under  
5 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 and  
12 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 qualified taxpayer, was  
18 a disabled individual who is eligible for or enrolled in, or has  
19 completed a state rehabilitation plan or is a service-connected  
20 disabled veteran, veteran of the Vietnam era, or veteran who is  
21 recently separated from military service.

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

27 (VII) Immediately preceding the qualified employee's  
28 commencement of employment with the qualified taxpayer, was  
29 a person 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) CalFresh benefits.

33 (dd) State and local general assistance.

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

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

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

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

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

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

16 (ii) Is engaged in those lines of business described in Codes  
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
19 of the Standard Industrial Classification (SIC) Manual published  
20 by the United States Office of Management and Budget, 1987  
21 edition.

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

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

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

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

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

1 the targeted tax area, a certification that provides that a qualified  
 2 employee meets the eligibility requirements specified in clause  
 3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
 4 Employment Development Department may provide preliminary  
 5 screening and referral to a certifying agency. The Department of  
 6 Housing and Community Development shall develop regulations  
 7 governing the issuance of certificates pursuant to subdivision (g)  
 8 of Section 7097 of the Government Code, and shall develop forms  
 9 for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (g) In the case of an estate or trust, both of the following apply:  
34 (1) The qualified wages for any taxable year shall be apportioned  
35 between the estate or trust and the beneficiaries on the basis of the  
36 income of the estate or trust allocable to each.

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



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

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

10 (j) (1) The amount of the credit otherwise allowed under this  
11 section and Section 17053.33, including any credit carryover from  
12 prior years, that may reduce the “net tax” for the taxable year shall  
13 not exceed the amount of tax that would be imposed on the  
14 qualified taxpayer’s business income attributable to the targeted  
15 tax area determined as if that attributable income represented all  
16 of the income of the qualified taxpayer subject to tax under this  
17 part.

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

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

32 (A) The property factor is a fraction, the numerator of which is  
33 the average value of the taxpayer’s real and tangible personal  
34 property owned or rented and used in the targeted tax area during  
35 the taxable year, and the denominator of which is the average value  
36 of all the taxpayer’s real and tangible personal property owned or  
37 rented and used in this state 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 targeted tax area during  
40 the taxable year for compensation, and the denominator of which

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

3 (4) The portion of any credit remaining, if any, after application  
 4 of this subdivision, shall be carried over to succeeding taxable  
 5 years, if necessary, until the credit is exhausted, as if it were an  
 6 amount exceeding the “net tax” for the taxable year, as provided  
 7 in subdivision (i). However, the portion of any credit remaining  
 8 for carryover to taxable years beginning on or after January 1,  
 9 2014, if any, after application of this subdivision, shall be carried  
 10 over only to the succeeding five taxable years, if necessary, until  
 11 the credit is exhausted, as if it were an amount exceeding the “net  
 12 tax” for the taxable year, as provided in subdivision (i).

13 (5) In the event that a credit carryover is allowable under  
 14 subdivision (i) for any taxable year after the targeted tax area  
 15 expiration date, the targeted tax area shall be deemed to remain in  
 16 existence for purposes of computing the limitation specified in  
 17 this subdivision.

18 (k) (1) Except as provided in paragraph (2), this section shall  
 19 cease to be operative for taxable years beginning on or after January  
 20 1, 2014, and shall be repealed on December 1, 2019.

21 (2) The section shall continue to apply with respect to qualified  
 22 employees who are employed by the qualified taxpayer within the  
 23 targeted tax area within the 60-month period immediately preceding  
 24 January 1, 2014, and qualified wages paid or incurred with respect  
 25 to those qualified employees shall continue to qualify for the credit  
 26 under this section for taxable years beginning on or after January  
 27 1, 2014, in accordance with this section, as amended by the act  
 28 adding this subdivision.

29 ~~SEC. 8.~~

30 *SEC. 9.* Section 17053.45 of the Revenue and Taxation Code  
 31 is amended to read:

32 17053.45. (a) For each taxable year beginning on or after  
 33 January 1, 1995, and before January 1, 2014, there shall be allowed  
 34 as a credit against the “net tax” (as defined by Section 17039) an  
 35 amount equal to the sales or use tax paid or incurred by the  
 36 taxpayer in connection with the purchase of qualified property  
 37 before January 1, 2014, to the extent that the qualified property  
 38 does not exceed a value of one million dollars (\$1,000,000).

39 (b) For purposes of this section:

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

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

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

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

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

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

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

36 (3) “Qualified property” means property that is each of the  
37 following:

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

- 1 (B) Purchased before the date the LAMBRA designation expires,  
2 is no longer binding, or becomes inoperative.
- 3 (C) Any of the following:
- 4 (i) High technology equipment, including, but not limited to,  
5 computers and electronic processing equipment.
- 6 (ii) Aircraft maintenance equipment, including, but not limited  
7 to, engine stands, hydraulic mules, power carts, test equipment,  
8 handtools, aircraft start carts, and tugs.
- 9 (iii) Aircraft components, including, but not limited to, engines,  
10 fuel control units, hydraulic pumps, avionics, starts, wheels, and  
11 tires.
- 12 (iv) Section 1245 property, as defined in Section 1245(a)(3) of  
13 the Internal Revenue Code.
- 14 (c) The credit provided under subdivision (a) shall be allowed  
15 only for qualified property manufactured in California unless  
16 qualified property of a comparable quality and price is not available  
17 for timely purchase and delivery from a California manufacturer.
- 18 (d) In the case where the credit otherwise allowed under this  
19 section exceeds the “net tax” for the taxable year, that portion of  
20 the credit which exceeds the “net tax” may be carried over and  
21 added to the credit, if any, in the succeeding five taxable years, if  
22 necessary, until the credit is exhausted. The credit shall be applied  
23 first to the earliest taxable years possible.
- 24 (e) Any taxpayer who elects to be subject to this section shall  
25 not be entitled to increase the basis of the property as otherwise  
26 required by Section 164(a) of the Internal Revenue Code with  
27 respect to sales or use tax paid or incurred in connection with the  
28 purchase of qualified property.
- 29 (f) (1) The amount of credit otherwise allowed under this  
30 section and Section 17053.46, including any credit carryover from  
31 prior years, that may reduce the “net tax” for the taxable year shall  
32 not exceed the amount of tax that would be imposed on the  
33 taxpayer’s business income attributed to a LAMBRA determined  
34 as if that attributable income represented all the income of the  
35 taxpayer subject to tax under this part.
- 36 (2) Attributable income is that portion of the taxpayer’s  
37 California source business income that is apportioned to the  
38 LAMBRA. For that purpose, the taxpayer’s business income that  
39 is attributable to sources in this state shall first be determined in  
40 accordance with Chapter 17 (commencing with Section 25101) of

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

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

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

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

21 (4) The portion of any credit remaining, if any, after application  
22 of this subdivision, shall be carried over to succeeding taxable  
23 years, if necessary, until the credit is exhausted, as if it were an  
24 amount exceeding the "net tax" for the taxable year, as provided  
25 in subdivision (d). However, the portion of any credit remaining  
26 for carryover to taxable years beginning on or after January 1,  
27 2014, if any, after application of this subdivision, shall be carried  
28 over only to the succeeding five taxable years, if necessary, until  
29 the credit is exhausted, as if it were an amount exceeding the "net  
30 tax" for the taxable year, as provided in subdivision (d).

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

37 (2) At the close of the second taxable year, if the taxpayer has  
38 not increased the number of its employees as determined by  
39 paragraph (2) of subdivision (b), then the amount of the credit

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

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

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

9 (j) This section is repealed on December 1, 2014.

10 ~~SEC. 9.~~

11 *SEC. 10.* Section 17053.46 of the Revenue and Taxation Code  
12 is amended to read:

13 17053.46. (a) For each taxable year beginning on or after  
14 January 1, 1995, there shall be allowed as a credit against the "net  
15 tax" (as defined in Section 17039) to a qualified taxpayer for hiring  
16 a qualified disadvantaged individual or a qualified displaced  
17 employee during the taxable year for employment in the LAMBRA.  
18 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

29 (b) For purposes of this section:

30 (1) "Qualified wages" means:

31 (A) That portion of wages paid or incurred by the employer  
32 during the taxable year to qualified disadvantaged individuals or  
33 qualified displaced employees that does not exceed 150 percent  
34 of the minimum wage.

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

39 (C) Wages received during the 60-month period beginning with  
40 the first day the individual commences employment with the

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

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

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

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

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

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

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

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

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

34 (i) An individual who has been determined eligible for services  
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
36 1501 et seq.).

37 (ii) Any voluntary or mandatory registrant under the Greater  
38 Avenues for Independence Act of 1985 as provided pursuant to  
39 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part  
40 3 of Division 9 of the Welfare and Institutions Code.

1 (iii) An economically disadvantaged individual age 16 years or  
2 older.

3 (iv) A dislocated worker who meets any of the following  
4 conditions:

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

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

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

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

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

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

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

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

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



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

4 (vii) A recipient of:

5 (I) Federal Supplemental Security Income benefits.

6 (II) Aid to Families with Dependent Children.

7 (III) CalFresh benefits.

8 (IV) State and local general assistance.

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

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

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

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

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

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

37 (C) In the case of a taxpayer who first commences doing  
38 business in the LAMBRA during the taxable year, for purposes of  
39 clauses (i) and (ii), respectively, of subparagraph (B), the divisors  
40 “2,000” and “12” shall be multiplied by a fraction, the numerator

1 of which is the number of months of the taxable year that the  
 2 taxpayer was doing business in the LAMBRA and the denominator  
 3 of which is 12.

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

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

8 (B) (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 a LAMBRA.

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

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

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

21 (c) For qualified disadvantaged individuals or qualified displaced  
 22 employees hired on or after January 1, 2001, the taxpayer shall do  
 23 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 office  
 27 or social services agency, or the local government administering  
 28 the LAMBRA, a certification that provides that a qualified  
 29 disadvantaged individual or qualified displaced employee meets  
 30 the eligibility requirements specified in subparagraph (C) of  
 31 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph  
 32 (6) of subdivision (b). The Employment Development Department  
 33 may provide preliminary screening and referral to a certifying  
 34 agency. The Department of Housing and Community Development  
 35 shall develop regulations governing the issuance of certificates  
 36 pursuant to Section 7114.2 of the Government Code and shall  
 37 develop forms for this purpose.

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

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

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

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

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

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

18 (e) (1) (A) If the employment, other than seasonal employment,  
19 of any employee, with respect to whom qualified wages are taken  
20 into account under subdivision (a), is terminated by the taxpayer  
21 at any time during the first 270 days of that employment (whether  
22 or not consecutive) or before the close of the 270th calendar day  
23 after the day in which that employee completes 90 days of  
24 employment with the taxpayer, the tax imposed by this part for  
25 the taxable year in which that employment is terminated shall be  
26 increased by an amount (determined under those regulations) 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 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 taxable  
37 year that includes the 60th month following the month in which  
38 the qualified disadvantaged individual commences seasonal  
39 employment with the qualified taxpayer, shall be increased by an  
40 amount equal to the credit allowed under subdivision (a) for that

1 taxable year and all prior taxable years attributable to qualified  
2 wages paid or incurred with respect to that qualified disadvantaged  
3 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 voluntarily  
7 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 subparagraph (A) of paragraph  
10 (1), becomes disabled to perform the services of that employment,  
11 unless that disability is removed before the close of that period  
12 and the 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 create  
22 a net increase in both the number of employees and the hours of  
23 employment.

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

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

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

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

1 the California Code of Regulations) of that qualified disadvantaged  
2 individual.

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

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

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

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

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

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

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

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

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

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

1 (h) 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 added  
4 to the credit, if any, in the succeeding five taxable years, if  
5 necessary, until the credit is exhausted. The credit shall be applied  
6 first to the earliest taxable years possible.

7 (i) (1) The amount of credit otherwise allowed under this section  
8 and Section 17053.45, including prior year credit carryovers, that  
9 may reduce the “net tax” for the taxable year shall not exceed the  
10 amount of tax that would be imposed on the taxpayer’s business  
11 income attributed to a LAMBRA determined as if that attributed  
12 income represented all of the net income of the taxpayer subject  
13 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 LAMBRA. For that purpose, the taxpayer’s business income that  
17 is attributable to sources in this state first shall be determined in  
18 accordance with Chapter 17 (commencing with Section 25101) of  
19 Part 11. That business income shall be further apportioned to the  
20 LAMBRA in accordance with Article 2 (commencing with Section  
21 25120) of Chapter 17 of Part 11, modified for purposes of this  
22 section in accordance with paragraph (3).

23 (3) Income shall be apportioned to a LAMBRA by multiplying  
24 the total California business income of the taxpayer by a fraction,  
25 the numerator of which is the property factor plus the payroll factor,  
26 and the denominator of which is two. For purposes of this  
27 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 LAMBRA during the  
31 taxable year, and the denominator of which is the average value  
32 of all the taxpayer’s real and tangible personal property owned or  
33 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 LAMBRA during the  
36 taxable year for compensation, and the denominator of which is  
37 the total compensation paid by the taxpayer in this state during the  
38 taxable year.

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

1 years, if necessary, until the credit is exhausted, as if it were an  
2 amount exceeding the “net tax” for the taxable year, as provided  
3 in subdivision (h). However, the portion of any credit remaining  
4 for carryover to taxable years beginning on or after January 1,  
5 2014, if any, after application of this subdivision, shall be carried  
6 over only to the succeeding five taxable years if necessary, until  
7 the credit is exhausted, as if it were an amount exceeding the “net  
8 tax” for the taxable year, as provided in subdivision (h).

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

13 (k) (1) Except as provided in paragraph (2), this section shall  
14 cease to be operative for taxable years beginning on or after January  
15 1, 2014, and shall be repealed on December 1, 2019.

16 (2) The section shall continue to apply with respect to qualified  
17 employees who are employed by the qualified taxpayer within the  
18 LAMBRA within the 60-month period immediately preceding  
19 January 1, 2014, and qualified wages paid or incurred with respect  
20 to those qualified employees shall continue to qualify for the credit  
21 under this section for taxable years beginning on or after January  
22 1, 2014, in accordance with this section, as amended by the act  
23 adding this subdivision.

24 ~~SEC. 10.~~

25 *SEC. 11.* Section 17053.47 of the Revenue and Taxation Code  
26 is amended to read:

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

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

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

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

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

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

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

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

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



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

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

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

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

13 (C) Who is any of the following immediately preceding the  
14 individual’s commencement of employment with the qualified  
15 taxpayer:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (4) The portion of any credit remaining, if any, after application  
14 of this subdivision, shall be carried over to succeeding taxable  
15 years, if necessary, until the credit is exhausted, as if it were an  
16 amount exceeding the “net tax” for the taxable year, as provided  
17 in subdivision (g). However, the portion of any credit remaining  
18 for carryover to taxable years beginning on or after January 1,  
19 2014, if any, after application of this subdivision, shall be carried  
20 over only to the succeeding five taxable years if necessary, until  
21 the credit is exhausted, as if it were an amount exceeding the “net  
22 tax” for the taxable year, as provided in subdivision (g).

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

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

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

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

3 (k) (1) Except as provided in paragraph (2), this section shall  
4 cease to be operative for taxable years beginning on or after January  
5 1, 2014, and shall be repealed on December 1, 2019.

6 (2) The section shall continue to apply with respect to qualified  
7 employees who are employed by the qualified taxpayer within the  
8 manufacturing enhancement area within the 60-month period  
9 immediately preceding January 1, 2014, and qualified wages paid  
10 or incurred with respect to those qualified employees shall continue  
11 to qualify for the credit under this section for taxable years  
12 beginning on or after January 1, 2014, in accordance with the  
13 provisions of this section, as amended by the act adding this  
14 subdivision.

15 ~~SEC. 11.~~

16 *SEC. 12.* Section 17053.70 of the Revenue and Taxation Code  
17 is amended to read:

18 17053.70. (a) There shall be allowed as a credit against the  
19 “net tax” (as defined in Section 17039) for the taxable year an  
20 amount equal to the sales or use tax paid or incurred during the  
21 taxable year by the taxpayer in connection with the taxpayer’s  
22 purchase of qualified property before January 1, 2014.

23 (b) For purposes of this section:

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

26 (2) “Qualified property” means:

27 (A) Any of the following:

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

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

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

34 (I) Air pollution control mechanisms.

35 (II) Water pollution control mechanisms.

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

39 (v) Motion picture manufacturing equipment central to  
40 production and postproduction, including, but not limited to,

1 cameras, audio recorders, and digital image and sound processing  
2 equipment.

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

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

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

12 (3) “Enterprise zone” means the area designated as an enterprise  
13 zone pursuant to Chapter 12.8 (commencing with Section 7070)  
14 of Division 7 of Title 1 of the Government Code as it read on the  
15 effective date of the act amending this section.

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

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

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

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

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



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

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

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

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

23 (4) The portion of any credit remaining, if any, after application  
24 of this subdivision, shall be carried over to succeeding taxable  
25 years, if necessary, until the credit is exhausted, as if it were an  
26 amount exceeding the "net tax" for the taxable year, as provided  
27 in subdivision (d). However, the portion of any credit remaining  
28 for carryover to taxable years beginning on or after January 1,  
29 2014, if any, after application of this subdivision, shall be carried  
30 over only to the succeeding five taxable years, if necessary, until  
31 the credit is exhausted, as if it were an amount exceeding the "net  
32 tax" for the taxable year, as provided in subdivision (d).

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

36 (h) This section is repealed on December 1, 2014.

37 ~~SEC. 12.~~

38 *SEC. 13.* Section 17053.73 is added to the Revenue and  
39 Taxation Code, to read:

1 17053.73. (a) (1) For each taxable year beginning on or after  
2 January 1, 2014, and before January 1, 2019, there shall be allowed  
3 to a qualified taxpayer that hires a qualified full-time employee  
4 and pays or incurs qualified wages attributable to work performed  
5 by the qualified full-time employee in a designated census tract  
6 or former enterprise zone, and that receives a tentative credit  
7 reservation for that qualified full-time employee, a credit against  
8 the “net tax,” as defined in Section 17039, in an amount calculated  
9 under this section.

10 (2) The amount of the credit allowable under this section for a  
11 taxable year shall be equal to the product of the tentative credit  
12 amount for the taxable year and the applicable percentage for that  
13 taxable year.

14 (3) (A) If a qualified taxpayer relocates to a designated census  
15 tract or former enterprise zone, the qualified taxpayer shall be  
16 allowed a credit with respect to qualified wages for each qualified  
17 full-time employee employed within the new location only if the  
18 qualified taxpayer provides each employee at the previous location  
19 or locations a written offer of employment at the new location in  
20 the designated census tract or former enterprise zone with  
21 comparable compensation.

22 (B) For purposes of this paragraph, “relocates to a designated  
23 census tract or former enterprise zone” means an increase in the  
24 number of qualified full-time employees, employed by a qualified  
25 taxpayer, within a designated census tract or tracts or former  
26 enterprise-zone zones within a 12-month period in which there is  
27 a decrease in the number of full-time employees, employed by the  
28 qualified taxpayer in this state, but outside of designated census  
29 tracts or former enterprise zone.

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

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

35 (b) For purposes of this section:

36 (1) The “tentative credit amount” for a taxable year shall be  
37 equal to the product of the applicable credit percentage for each  
38 qualified full-time employee and the qualified wages paid by the  
39 qualified taxpayer during the taxable year to that qualified full-time  
40 employee.

1 (2) The “applicable percentage” for a taxable year shall be equal  
2 to a fraction, the numerator of which is the net increase in the total  
3 number of full-time employees employed in this state during the  
4 taxable year, determined on an annual full-time equivalent basis,  
5 as compared with the total number of full-time employees  
6 employed in this state during the base year, determined on the  
7 same basis, and the denominator of which shall be the total number  
8 of qualified full-time employees employed in this state during the  
9 taxable year. The applicable percentage shall not exceed 100  
10 percent.

11 (3) The “applicable credit percentage” means the credit  
12 percentage for the calendar year during which a qualified full-time  
13 employee was first employed by the qualified taxpayer. The  
14 applicable credit percentage for all calendar years shall be 35  
15 percent.

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

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

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

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

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

32 (7) “Designated census tract” means a census tract within the  
33 state that is determined by the Department of Finance to have a  
34 civilian unemployment rate that is within the top 25 percent of all  
35 census tracts within the state and has a poverty rate within the top  
36 25 percent of all census tracts within the state, as prescribed in  
37 Section 13073.5 of the Government Code.

38 (8) “Former enterprise zone” means an enterprise zone  
39 designated *as of December 31, 2011, and any expansion of an*  
40 *enterprise zone prior to December 31, 2012*, under former Chapter

1 12.8 (commencing with former Section ~~7070~~ 7070) of Division 7  
2 of Title 1 of the Government Code), Code, as in effect on December  
3 31, ~~2011~~, 2012, excluding any census tract within an enterprise  
4 zone that is identified by the Department of Finance pursuant to  
5 Section 13073.5 of the Government Code as a census tract within  
6 the lowest quartile of census tracts with the lowest civilian  
7 unemployment *and poverty*.

8 (9) “Minimum wage” means the wage established pursuant to  
9 Chapter 1 (commencing with Section 1171) of Part 4 of Division  
10 2 of the Labor Code.

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

13 (i) Performs at least 50 percent of his or her services for the  
14 qualified taxpayer during the taxable year in a designated census  
15 tract or former enterprise zone.

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

18 (iii) Is hired by the qualified taxpayer on or after January 1,  
19 2014.

20 (iv) Is hired by the qualified taxpayer after the date the  
21 Department of Finance determines that the census tract or enterprise  
22 zone referred to in clause (i) is a designated census tract or *that*  
23 *the census tracts within a former enterprise zone are not census*  
24 *tracts with the lowest civilian unemployment and poverty*.

25 (v) Satisfies either of the following conditions:

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

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

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

33 (I) Was unemployed for the six months immediately preceding  
34 employment with the qualified taxpayer. In the case of an  
35 individual that completed a program of study at a college,  
36 university, or other postsecondary educational institution, received  
37 a baccalaureate, postgraduate, or professional degree, and was  
38 unemployed for the six months immediately preceding employment  
39 with the qualified taxpayer, that individual must have completed

1 that program of study at least 12 months prior to the individual's  
2 commencement of employment with the qualified taxpayer.

3 (II) Is a veteran that had not been employed since separation  
4 from service in the Armed Forces of the United States.

5 (III) Was a recipient of the credit allowed under Section 32 of  
6 the Internal Revenue Code, relating to earned income, as applicable  
7 for federal purposes, for the previous taxable year.

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

12 (11) (A) "Qualified taxpayer" means a person or entity engaged  
13 in a trade or business within a designated census tract or former  
14 enterprise zone that, during the taxable year, pays or incurs  
15 qualified wages.

16 ~~(B) "Qualified small business taxpayer" means a qualified  
17 taxpayer that is a small business.~~

18 ~~(C)~~

19 ~~(B)~~ In the case of any pass-thru entity, the determination of  
20 whether a taxpayer is a qualified taxpayer ~~or a qualified small~~  
21 ~~business taxpayer~~ under this section shall be made at the entity  
22 level and any credit under this section or Section 23626 shall be  
23 allowed to the pass-thru entity and passed through to the partners  
24 and shareholders in accordance with applicable provisions of this  
25 part or Part 11 (commencing with Section 23001). For purposes  
26 of this subdivision, the term "pass-thru entity" means any  
27 partnership or "S" corporation.

28 ~~(D)~~

29 (C) "Qualified taxpayers" shall not include any of the following:

30 (i) Employers that provide temporary help services, as described  
31 in Code 561320 of the North American Industry Classification  
32 System (NAICS) published by the United States Office of  
33 Management and Budget, 2012 Edition.

34 (ii) Employers that provide retail trade services, as described  
35 in Sector 44-45 of the North American Industry Classification  
36 System (NAICS) published by the United States Office of  
37 Management and Budget, 2012 Edition.

38 (iii) Employers that are primarily engaged in providing food  
39 services, as described in Code 711110, 722511, 722513, 722514,  
40 or 722515 of the North American Industry Classification System

1 (NAICS) published by the United States Office of Management  
 2 and Budget, 2012 edition.

3 (iv) Employers that are primarily engaged in services as  
 4 described in Code 713210, 721120, or 722410 of the North  
 5 American Industry Classification System (NAICS) published by  
 6 the United States Office of Management and Budget, 2012 edition.

7 ~~(E)~~

8 (D) Subparagraph ~~(D)~~ (C) shall not apply to a taxpayer that is  
 9 a “small business.”

10 (12) “Qualified wages” means those wages that meet all of the  
 11 following requirements:

12 (A) That portion of wages paid or incurred by the qualified  
 13 taxpayer during the taxable year to each qualified full-time  
 14 employee that exceeds 150 percent of minimum wage, but does  
 15 not exceed 350 percent of minimum wage.

16 (B) Wages paid or incurred during the 60-month period  
 17 beginning with the first day the qualified full-time employee  
 18 commences employment with the qualified taxpayer. In the case  
 19 of any employee who is reemployed, including a regularly  
 20 occurring seasonal increase, in the trade or business operations of  
 21 the qualified taxpayer, this reemployment shall not be treated as  
 22 constituting commencement of employment for purposes of this  
 23 section.

24 (C) Except as provided in paragraph (3) of subdivision ~~(m)~~, (n),  
 25 qualified wages shall not include any wages paid or incurred by  
 26 the qualified taxpayer on or after the date that the Department of  
 27 Finance’s redesignation of designated census tracts is effective,  
 28 as provided in paragraph (2) of subdivision (g), so that a census  
 29 tract is no longer a designated census tract.

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

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

37 (B) (i) For purposes of this paragraph, “gross receipts, less  
 38 returns and allowances reportable to this state,” means the sum of  
 39 the gross receipts from the production of business income, as  
 40 defined in subdivision (a) of Section 25120, and the gross receipts

1 from the production of nonbusiness income, as defined in  
2 subdivision (d) of Section 25120.

3 (ii) In the case of any trade or business activity conducted by a  
4 partnership or an “S” corporation, the limitations set forth in  
5 subparagraph (A) shall be applied to the partnership or “S”  
6 corporation ~~at the entity level~~, and to each partner or shareholder.

7 (iii) *For taxpayers that are required to be included in a*  
8 *combined report under Section 25101 or authorized to be included*  
9 *in a combined report under Section 25101.15, the dollar amount*  
10 *specified in subparagraph (A) shall apply to the aggregate gross*  
11 *receipts of all taxpayers that are required to be or authorized to*  
12 *be included in a combined report.*

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

15 (A) Not in receipt of wages subject to withholding under Section  
16 13020 of the Unemployment Insurance Code for that period.

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

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

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

25 (1) (A) The net increase in full-time employees shall be  
26 determined on an annual full-time equivalent basis by subtracting  
27 from the amount determined in subparagraph (C) the amount  
28 determined in subparagraph (B).

29 (B) The total number of full-time employees employed in the  
30 ~~preceding taxable~~ *base* year by the taxpayer and by any trade or  
31 business acquired by the taxpayer during the current taxable year.

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

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

38 (d) For purposes of this section:

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

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

8 (e) (1) To be eligible for the credit allowed by this section, a  
9 qualified taxpayer shall, upon hiring a qualified full-time employee,  
10 request a tentative credit reservation from the Franchise Tax Board  
11 within 30 days of complying with the Employment Development  
12 Department's new hire reporting requirements as provided in  
13 Section 1088.5 of the Unemployment Insurance Code, ~~in a~~ *the*  
14 form and manner prescribed by the Franchise Tax Board.

15 (2) To obtain a tentative credit reservation with respect to a  
16 qualified full-time employee, the qualified taxpayer shall provide  
17 necessary information, as determined by the Franchise Tax Board,  
18 including the name, social security number, the start date of  
19 employment, the rate of pay of the qualified full-time employee,  
20 ~~and~~ the qualified taxpayer's gross receipts, less returns and  
21 allowances, for the previous taxable year, *and whether the qualified*  
22 *full-time employee is a resident of a targeted employment area,*  
23 *as defined in former Section 7072 of the Government Code, as in*  
24 *effect on December 31, 2013.*

25 (3) The qualified taxpayer shall provide the Franchise Tax Board  
26 an annual certification of employment with respect to each  
27 qualified full-time employee hired in a previous taxable year, on  
28 or before, the 15th day of the third month of the taxable year. The  
29 certification shall include necessary information, as determined  
30 by the Franchise Tax Board, including the name, social security  
31 number, start date of employment, and rate of pay for each qualified  
32 full-time employee employed by the qualified taxpayer.

33 (4) A tentative credit reservation provided to a taxpayer with  
34 respect to an employee of that taxpayer shall not constitute a  
35 determination by the Franchise Tax Board with respect to any of  
36 the requirements of this section regarding a taxpayer's eligibility  
37 for the credit authorized by this section.

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

39 (1) Approve a tentative credit reservation with respect to a  
40 qualified full-time employee hired during a calendar year ~~and~~



1 ~~advise the qualified taxpayer of the applicable credit percentage~~  
2 ~~and the small business applicable credit percentage that may apply~~  
3 ~~with respect to the qualified full-time employee. year.~~

4 ~~(2) Determine and publish on its Internet Web site, on or before~~  
5 ~~September 1 of each calendar year, the applicable credit percentage~~  
6 ~~and small business applicable credit percentage for the following~~  
7 ~~calendar year.~~

8 ~~(3) Estimate the tentative credit wage base amount and the small~~  
9 ~~business tentative credit wage base amount for a calendar year~~  
10 ~~based on the starting wage or salary and full-time employment for~~  
11 ~~an entire calendar year.~~

12 ~~(4)~~

13 (2) Determine the aggregate tentative reservation amount and  
14 the aggregate small business tentative reservation amount for a  
15 calendar year.

16 (3) *A tentative credit reservation request from a qualified*  
17 *taxpayer with respect to a qualified full-time employee who is a*  
18 *resident of a targeted employment area, as defined in former*  
19 *Section 7072 of the Government Code, as in effect on December*  
20 *31, 2013, shall be expeditiously processed by the Franchise Tax*  
21 *Board. The residence of a qualified full-time employee in a targeted*  
22 *employment area shall have no other effect on the eligibility of an*  
23 *individual as a qualified full-time employee or the eligibility of a*  
24 *qualified taxpayer for the credit authorized by this section.*

25 ~~(5)~~

26 (4) Notwithstanding Section 19542, provide as a searchable  
27 database on its Internet Web site, for each taxable year beginning  
28 on or after January 1, 2014, and before January 1, 2019, the  
29 employer names, amounts of tax credit claimed, and number of  
30 new jobs created for each taxable year pursuant to this section and  
31 Section 23623.

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

36 (2) The redesignation of designated census tracts and lowest  
37 civilian unemployment census tracts by the Department of Finance  
38 as provided in Section 13073.5 of the Government Code shall be  
39 effective, for purposes of this credit, one year after the date the  
40 Department of Finance redesignates the designated census tracts.

1 (h) For purposes of this section:

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

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

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

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

16 (5) If an employer acquires the major portion of a trade or  
17 business of another employer, hereinafter in this paragraph referred  
18 to as the predecessor, or the major portion of a separate unit of a  
19 trade or business of a predecessor, then, for purposes of applying  
20 this section, other than subdivision (i), for any taxable year ending  
21 after that acquisition, the employment relationship between a  
22 qualified full-time employee and an employer shall not be treated  
23 as terminated if the employee continues to be employed in that  
24 trade or business.

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

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

36 (A) A termination of employment of a qualified full-time  
37 employee who voluntarily leaves the employment of the qualified  
38 taxpayer.

39 (B) A termination of employment of a qualified full-time  
40 employee who, before the close of the period referred to in

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

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

9 (D) A termination of employment of a qualified full-time  
10 employee due to a substantial reduction in the trade or business  
11 operations of the qualified taxpayer, *including reductions due to*  
12 *seasonal employment*.

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

17 (F) A termination of employment of a qualified full-time  
18 employee, when that employment is considered seasonal  
19 employment and the qualified employee is rehired on a seasonal  
20 basis.

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

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

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

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

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

38 (k) In the case where the credit allowed by this section exceeds  
39 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and the succeeding four years if  
 2 necessary, until the credit is exhausted.

3 (l) The Franchise Tax Board may prescribe rules, guidelines,  
 4 or procedures necessary or appropriate to carry out the purposes  
 5 of this section, including any guidelines regarding the allocation  
 6 of the credit allowed under this section. Chapter 3.5 (commencing  
 7 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
 8 Government Code shall not apply to any rule, guideline, or  
 9 procedure prescribed by the Franchise Tax Board pursuant to this  
 10 section.

11 (m) (1) *Upon the effective date of this section, the Department*  
 12 *of Finance shall estimate the total dollar amount of credits that*  
 13 *will be claimed under this section with respect to each fiscal year*  
 14 *from the 2013–14 fiscal year to the 2018–19 fiscal year, inclusive.*

15 (2) *The Franchise Tax Board shall annually provide to the Joint*  
 16 *Legislative Budget Committee, by no later than March 1, a report*  
 17 *of the total dollar amount of the credits claimed under this section*  
 18 *with respect to the relevant fiscal year. The report shall compare*  
 19 *the total dollar amount of credits claimed under this section with*  
 20 *respect to that fiscal year with the department’s estimate with*  
 21 *respect to that same fiscal year. If the total dollar amount of credits*  
 22 *claimed for the fiscal year is less than the estimate for that fiscal*  
 23 *year, the report shall identify options for increasing annual claims*  
 24 *of the credit so as to meet estimated amounts.*

25 ~~(m)~~

26 (n) (1) This section shall remain in effect only until December  
 27 1, 2024, and as of that date is repealed.

28 (2) Notwithstanding paragraph (1) of subdivision (a), this section  
 29 shall continue to be operative for taxable years beginning on or  
 30 after January 1, 2019, but only with respect to qualified full-time  
 31 employees who commenced employment with a qualified taxpayer  
 32 in a designated census tract or former enterprise zone in a taxable  
 33 year beginning before January 1, 2019.

34 (3) This section shall remain operative for any qualified taxpayer  
 35 with respect to any qualified full-time employee after the  
 36 designated census tract is no longer designated or a former  
 37 enterprise zone ceases to be a former enterprise zone, as defined  
 38 in this section, for the remaining period, if any, of the 60-month  
 39 period after the original date of hiring of an otherwise qualified  
 40 full-time employee and any wages paid or incurred with respect

1 to those qualified full-time employees after the designated census  
2 tract is no longer designated or a former enterprise zone ceases to  
3 be a former enterprise zone, as defined in this section, shall be  
4 treated as qualified wages under this section, provided the  
5 employee satisfies any other requirements of paragraphs (10) and  
6 (12) of subdivision (b), as if the designated census tract was still  
7 designated and binding.

8 ~~SEC. 13.~~

9 *SEC. 14.* Section 17053.74 of the Revenue and Taxation Code  
10 is amended to read:

11 17053.74. (a) There shall be allowed a credit against the “net  
12 tax” (as defined in Section 17039) to a taxpayer who employs a  
13 qualified employee in an enterprise zone during the taxable year.  
14 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) (i) Except as provided in clause (ii), that portion of wages  
28 paid or incurred by the taxpayer during the taxable year to qualified  
29 employees that does not exceed 150 percent of the 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 Classification  
34 (SIC) Manual published by the United States Office of  
35 Management and Budget, 1987 edition, “qualified wages” means  
36 that portion of hourly wages that does not exceed 202 percent of  
37 the minimum wage.

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

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

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

13 (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) “Zone expiration date” means the date the enterprise zone  
18 designation expires, is no longer binding, becomes inoperative, or  
19 is repealed.

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 during  
23 the taxable year are directly related to the conduct of the taxpayer’s  
24 trade or business located in an enterprise zone.

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

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

29 (iv) Is any of the following:

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

37 (II) Immediately preceding the qualified employee’s  
38 commencement of employment with the taxpayer, was a person  
39 eligible to be a voluntary or mandatory registrant under the Greater  
40 Avenues for Independence Act of 1985 (GAIN) provided for

1 pursuant to Article 3.2 (commencing with Section 11320) of  
2 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
3 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 (IV) Immediately preceding the qualified employee's  
8 commencement of employment with the taxpayer, was a dislocated  
9 worker who meets any of the following:

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

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

19 (cc) Is long-term unemployed and has limited opportunities for  
20 employment or reemployment in the same or a similar occupation  
21 in the area in which the individual resides, including an individual  
22 55 years of age or older who may have substantial barriers to  
23 employment by reason of age.

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

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

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

34 (gg) Is a seasonal or migrant worker who experiences chronic  
35 seasonal unemployment and underemployment in the agriculture  
36 industry, aggravated by continual advancements in technology and  
37 mechanization.

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

1 (V) Immediately preceding the qualified employee's  
2 commencement of employment with the taxpayer, was a disabled  
3 individual who is eligible for or enrolled in, or has completed a  
4 state rehabilitation plan or is a service-connected disabled veteran,  
5 veteran of the Vietnam era, or veteran who is recently separated  
6 from military service.

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

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

15 (aa) Federal Supplemental Security Income benefits.

16 (bb) Aid to Families with Dependent Children.

17 (cc) CalFresh benefits.

18 (dd) State and local general assistance.

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

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

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

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

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



1 (5) “Taxpayer” means a person or entity engaged in a trade or  
2 business within an enterprise zone designated pursuant to Chapter  
3 12.8 (commencing with Section 7070) of the Government Code.

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

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

8 (1) Obtain from the Employment Development Department, as  
9 permitted by federal law, the local county or city Job Training  
10 Partnership Act administrative entity, the local county GAIN office  
11 or social services agency, or the local government administering  
12 the enterprise zone, a certification which 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 The Department of Housing and Community Development shall  
19 develop regulations governing the issuance of certificates by local  
20 governments pursuant to subdivision (a) of Section 7086 of the  
21 Government Code.

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

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

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

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

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

35 (2) If an employer acquires the major portion of a trade or  
36 business of another employer (hereinafter in this paragraph referred  
37 to as the “predecessor”) or the major portion of a separate unit of  
38 a trade or business of a predecessor, then, for purposes of applying  
39 this section (other than subdivision (e)) for any calendar year  
40 ending after that acquisition, the employment relationship between

1 a qualified employee and an employer shall not be treated as  
2 terminated if the employee continues to be employed in that trade  
3 or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (h) The credit allowable under this section shall be reduced by  
13 the credit allowed under Sections 17053.10, 17053.17, and  
14 17053.46 claimed for the same employee. The credit shall also be  
15 reduced by the federal credit allowed under Section 51 of the  
16 Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for  
18 the 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 (i) or (j).

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

27 (j) (1) The amount of the credit otherwise allowed under this  
28 section and Section 17053.70, including any credit carryover from  
29 prior years, that may reduce the “net 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 enterprise zone  
32 determined as if that attributable income represented all of the  
33 income of the taxpayer subject to tax under this part.

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

1 Section 25120) of Chapter 17 of Part 11, modified for purposes  
2 of this section in accordance with paragraph (3).

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

8 (A) The property factor is a fraction, the numerator of which is  
9 the average value of the taxpayer's real and tangible personal  
10 property owned or rented and used in the enterprise zone during  
11 the taxable year, and the denominator of which is the average value  
12 of all the taxpayer's real and tangible personal property owned or  
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is  
15 the total amount paid by the taxpayer in the enterprise zone during  
16 the taxable year for compensation, and the denominator of which  
17 is the total compensation paid by the taxpayer in this state during  
18 the taxable year.

19 (4) The portion of any credit remaining, if any, after application  
20 of this subdivision, shall be carried over to succeeding taxable  
21 years, if necessary, until the credit is exhausted, as if it were an  
22 amount exceeding the "net tax" for the taxable year, as provided  
23 in subdivision (i). However, the portion of any credit remaining  
24 for carryover to taxable years beginning on or after January 1,  
25 2014, if any, after application of this subdivision, shall be carried  
26 over only to the succeeding five taxable years if necessary, until  
27 the credit is exhausted, as if it were an amount exceeding the "net  
28 tax" for the taxable year, as provided in subdivision (i).

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

32 (l) (1) Except as provided in paragraph (2), this section shall  
33 cease to be operative for taxable years beginning on or after January  
34 1, 2014, and shall be repealed on December 1, 2019.

35 (2) The section shall continue to apply with respect to qualified  
36 employees who are employed by the qualified taxpayer within the  
37 enterprise zone within the 60-month period immediately preceding  
38 January 1, 2014, and qualified wages paid or incurred with respect  
39 to those qualified employees shall continue to qualify for the credit  
40 under this section for taxable years beginning on or after January

1 1, 2014, in accordance with this section, as amended by the act  
2 adding this subdivision.

3 ~~SEC. 14.~~

4 *SEC. 15.* Section 17053.75 of the Revenue and Taxation Code  
5 is amended to read:

6 17053.75. (a) There shall be allowed as a credit against the  
7 “net tax” (as defined by Section 17039) for the taxable year an  
8 amount equal to five percent of the qualified wages received by  
9 the taxpayer during the taxable year.

10 (b) For purposes of this section:

11 (1) “Qualified employee” means a taxpayer who meets both of  
12 the following:

13 (A) Is described in clauses (i) and (ii) of subparagraph (A) of  
14 paragraph (4) of subdivision (b) of Section 17053.74.

15 (B) Is not an employee of the federal government or of this state  
16 or of any political subdivision of this state.

17 (2) (A) “Qualified wages” means “wages,” as defined in  
18 subsection (b) of Section 3306 of the Internal Revenue Code,  
19 attributable to services performed for an employer with respect to  
20 whom the taxpayer is a qualified employee in an amount that does  
21 not exceed one and one-half times the dollar limitation specified  
22 in that subsection.

23 (B) “Qualified wages” does not include any compensation  
24 received from the federal government or this state or any political  
25 subdivision of this state.

26 (C) “Qualified wages” does not include any wages received on  
27 or after the date the enterprise zone designation expires, is no  
28 longer binding, or becomes inoperative.

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

32 (c) For each dollar of income received by the taxpayer in excess  
33 of qualified wages, as defined in this section, the credit shall be  
34 reduced by nine cents (\$0.09).

35 (d) The amount of the credit allowed by this section in any  
36 taxable year shall not exceed the amount of tax that would be  
37 imposed on the taxpayer’s income attributable to employment  
38 within the enterprise zone as if that income represented all of the  
39 income of the taxpayer subject to tax under this part.

1 (e) This section shall cease to be operative for taxable years  
2 beginning on or after January 1, 2014, and shall be repealed on  
3 December 1, 2014.

4 ~~SEC. 15.~~

5 *SEC. 16.* Section 17053.80 of the Revenue and Taxation Code,  
6 as added by Section 3 of Chapter 10 of the ~~3rd~~ *Third* Extraordinary  
7 Session of the Statutes of 2009, is repealed.

8 ~~SEC. 16.~~

9 *SEC. 17.* Section 17053.80 of the Revenue and Taxation Code,  
10 as added by Section 3 of Chapter ~~10~~ *17* of the ~~3rd~~ *Third*  
11 Extraordinary Session of the Statutes of 2009, is amended to read:

12 17053.80. (a) For each taxable year beginning on or after  
13 January 1, 2009, there shall be allowed as a credit against the “net  
14 tax,” as defined in Section 17039, three thousand dollars (\$3,000)  
15 for each net increase in qualified full-time employees, as specified  
16 in subdivision (c), hired during the taxable year by a qualified  
17 employer.

18 (b) For purposes of this section:

19 (1) “Acquired” includes any gift, inheritance, transfer incident  
20 to divorce, or any other transfer, whether or not for consideration.

21 (2) “Qualified full-time employee” means:

22 (A) A qualified employee who was paid qualified wages by the  
23 qualified employer for services of not less than an average of 35  
24 hours per week.

25 (B) A qualified employee who was a salaried employee and  
26 was paid compensation during the taxable year for full-time  
27 employment, within the meaning of Section 515 of the Labor Code,  
28 by the qualified employer.

29 (3) A “qualified employee” shall not include any of the  
30 following:

31 (A) An employee certified as a qualified employee in an  
32 enterprise zone designated in accordance with Chapter 12.8  
33 (commencing with Section 7070) of Division 7 of Title 1 of the  
34 Government Code.

35 (B) An employee certified as a qualified disadvantaged  
36 individual in a manufacturing enhancement area designated in  
37 accordance with Section 7073.8 of the Government Code.

38 (C) An employee certified as a qualified employee in a targeted  
39 tax area designated in accordance with Section 7097 of the  
40 Government Code.

1 (D) An employee certified as a qualified disadvantaged  
2 individual or a qualified displaced employee in a local agency  
3 military base recovery area (LAMBRA) designated in accordance  
4 with Chapter 12.97 (commencing with Section 7105) of Division  
5 7 of Title 1 of the Government Code.

6 (E) An employee whose wages are included in calculating any  
7 other credit allowed under this part.

8 (4) “Qualified employer” means a taxpayer that, as of the last  
9 day of the preceding taxable year, employed a total of 20 or fewer  
10 employees.

11 (5) “Qualified wages” means wages subject to Division 6  
12 (commencing with Section 13000) of the Unemployment Insurance  
13 Code.

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

15 (A) In the case of a full-time employee paid hourly qualified  
16 wages, “annual full-time equivalent” means the total number of  
17 hours worked for the taxpayer by the employee (not to exceed  
18 2,000 hours per employee) divided by 2,000.

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

22 (c) The net increase in qualified full-time employees of a  
23 qualified employer shall be determined as provided by this  
24 subdivision:

25 (1) (A) The net increase in qualified full-time employees shall  
26 be determined on an annual full-time equivalent basis by  
27 subtracting from the amount determined in subparagraph (C) the  
28 amount determined in subparagraph (B).

29 (B) The total number of qualified full-time employees employed  
30 in the preceding taxable year by the taxpayer and by any trade or  
31 business acquired by the taxpayer during the current taxable year.

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

35 (2) For taxpayers who first commence doing business in this  
36 state during the taxable year, the number of full-time employees  
37 for the immediately preceding prior taxable year shall be zero.

38 (d) In the case where the credit allowed by this section exceeds  
39 the “net tax,” the excess may be carried over to reduce the “net



1 tax” in the following year, and succeeding seven years if necessary,  
2 until the credit is exhausted.

3 (e) Any deduction otherwise allowed under this part for qualified  
4 wages shall not be reduced by the amount of the credit allowed  
5 under this section.

6 (f) For purposes of this section:

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

10 (2) In determining whether the taxpayer has first commenced  
11 doing business in this state during the taxable year, the provisions  
12 of subdivision (f) of Section 17276, without application of  
13 paragraph (7) of that subdivision, shall apply.

14 (g) (1) (A) Credit under this section and Section 23623 shall  
15 be allowed only for credits claimed on timely filed original returns  
16 received by the Franchise Tax Board on or before the cut-off date  
17 established by the Franchise Tax Board.

18 (B) For purposes of this paragraph, the cut-off date shall be the  
19 last day of the calendar quarter within which the Franchise Tax  
20 Board estimates it will have received timely filed original returns  
21 claiming credits under this section and Section 23623 that  
22 cumulatively total four hundred million dollars (\$400,000,000)  
23 for all taxable years.

24 (2) The date a return is received shall be determined by the  
25 Franchise Tax Board.

26 (3) (A) The determinations of the Franchise Tax Board with  
27 respect to the cut-off date, the date a return is received, and whether  
28 a return has been timely filed for purposes of this subdivision may  
29 not be reviewed in any administrative or judicial proceeding

30 (B) Any disallowance of a credit claimed due to a determination  
31 under this subdivision, including the application of the limitation  
32 specified in paragraph (1), shall be treated as a mathematical error  
33 appearing on the return. Any amount of tax resulting from such  
34 disallowance may be assessed by the Franchise Tax Board in the  
35 same manner as provided by Section 19051.

36 (4) The Franchise Tax Board shall periodically provide notice  
37 on its Web site with respect to the amount of credit under this  
38 section and Section 23623 claimed on timely filed original returns  
39 received by the Franchise Tax Board.

1 (h) (1) The Franchise Tax Board may prescribe rules, guidelines  
 2 or procedures necessary or appropriate to carry out the purposes  
 3 of this section, including any guidelines regarding the limitation  
 4 on total credits allowable under this section and Section 23623  
 5 and guidelines necessary to avoid the application of paragraph (2)  
 6 of subdivision (f) through split-ups, shell corporations, partnerships,  
 7 tiered ownership structures, or otherwise.

8 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
 9 Division 3 of Title 2 of the Government Code does not apply to  
 10 any standard, criterion, procedure, determination, rule, notice, or  
 11 guideline established or issued by the Franchise Tax Board  
 12 pursuant to this section.

13 (i) This section shall cease to be operative for taxable years  
 14 beginning on or after January 1, 2014, and shall be repealed on  
 15 December 1, 2014.

16 ~~SEC. 17.~~

17 *SEC. 18.* Section 17059.2 is added to the Revenue and Taxation  
 18 Code, to read:

19 17059.2. (a) (1) For each taxable year beginning on and after  
 20 January 1, 2014, and before January 1, 2025, there shall be allowed  
 21 as a credit against the “net tax,” as defined in Section 17039, an  
 22 amount as determined by the committee pursuant to paragraph (2)  
 23 and approved pursuant to Section 18410.2.

24 (2) The amount of credit allocated to a taxpayer for a taxable  
 25 year pursuant to this section shall be as set forth in a written  
 26 agreement between GO-Biz and the taxpayer and shall be based  
 27 ~~on, but not limited to,~~ on the following factors:

28 (A) The number of jobs the taxpayer will create or retain in this  
 29 state.

30 (B) The compensation paid or proposed to be paid by the  
 31 taxpayer to its employees, including wages and fringe benefits.

32 (C) The amount of investment in this state by the taxpayer.

33 (D) The extent of unemployment in the area in which the  
 34 taxpayer’s project or business is proposed or located.

35 (E) The incentives available to the taxpayer in this state,  
 36 including incentives from the state, local government, and other  
 37 entities.

38 (F) The incentives available to the taxpayer in other states.

39 (G) The duration of the proposed project and the duration the  
 40 taxpayer commits to remain in this state.

1 (H) The overall economic impact in this state of the taxpayer's  
2 project or business.

3 (I) The strategic importance of the taxpayer's project or business  
4 to the state, region, or locality.

5 (J) The opportunity for future growth and expansion in this state  
6 by the taxpayer's business.

7 (K) The extent to which the anticipated benefit to the state  
8 exceeds the projected benefit to the taxpayer from the tax credit.

9 (3) The written agreement entered into pursuant to paragraph  
10 (2) shall include:

11 (A) Terms and conditions that include a minimum compensation  
12 level and a minimum job retention period.

13 (B) Provisions indicating whether the credit is to be allocated  
14 in full upon approval or in increments based on mutually agreed  
15 upon milestones when satisfactorily met by the taxpayer.

16 (C) Provisions that allow the committee to recapture the credit,  
17 in whole or in part, if the taxpayer fails to fulfill the terms and  
18 conditions of the written agreement.

19 (b) For purposes of this section:

20 (1) "Committee" means the California Competes Tax Credit  
21 Committee established pursuant to Section 18410.2.

22 (2) "GO-Biz" means the Governor's Office of Business and  
23 Economic Development.

24 (c) For purposes of this section, GO-Biz shall do the following:

25 (1) Give priority to a taxpayer whose project or business is  
26 located or proposed to be located in an area of high unemployment  
27 or poverty.

28 (2) Negotiate with a taxpayer the terms and conditions of  
29 proposed written agreements that provide the credit allowed  
30 pursuant to this section to a taxpayer.

31 (3) Provide the negotiated written agreement to the committee  
32 for its approval pursuant to Section 18410.2.

33 (4) Inform the Franchise Tax Board of the terms and conditions  
34 of the written agreement upon approval of the written agreement  
35 by the committee.

36 (5) Inform the Franchise Tax Board of any recapture, in whole  
37 or in part, of a previously allocated credit upon approval of the  
38 recapture by the committee.

39 (6) Post on its Internet Web site all of the following:

1 (A) The name of each taxpayer allocated a credit pursuant to  
2 this section.

3 (B) The estimated amount of the investment by each taxpayer.

4 (C) The estimated number of jobs created or retained.

5 (D) The amount of the credit allocated to the taxpayer.

6 (E) The amount of the credit recaptured from the taxpayer, if  
7 applicable.

8 (d) For purposes of this section, the Franchise Tax Board shall  
9 do all of the following:

10 (1) (A) Except as provided in subparagraph (B), review the  
11 books and records of all taxpayers allocated a credit pursuant to  
12 this section to ensure compliance with the terms and conditions  
13 of the written agreement between the taxpayer and GO-Biz.

14 (B) In the case of a taxpayer that is a “small business,” as  
15 defined in Section 17053.73, review the books and records of the  
16 taxpayer allocated a credit pursuant to this section to ensure  
17 compliance with the terms and conditions of the written agreement  
18 between the taxpayer and GO-Biz when, in the sole discretion of  
19 the Franchise Tax Board, a review of those books and records is  
20 appropriate or necessary in the best interests of the state.

21 (2) Notwithstanding Section 19542:

22 (A) Notify GO-Biz of a possible breach of the written agreement  
23 by a taxpayer and provide detailed information regarding the basis  
24 for that determination.

25 (B) Provide information to GO-Biz with respect to whether a  
26 taxpayer is a “small business,” as defined in Section 17053.73.

27 (e) In the case where the credit allowed under this section  
28 exceeds the “net tax,” as defined in Section ~~17059~~, 17039, for a  
29 taxable year, the excess credit may be carried over to reduce the  
30 “net tax” in the following taxable year, and succeeding five taxable  
31 years, if necessary, until the credit has been exhausted.

32 (f) Any recapture, in whole or in part, of a credit approved by  
33 the committee pursuant to Section 18410.2 shall be treated as a  
34 mathematical error appearing on the return. Any amount of tax  
35 resulting from that recapture shall be assessed by the Franchise  
36 Tax Board in the same manner as provided by Section 19051. The  
37 amount of tax resulting from the recapture shall be added to the  
38 tax otherwise due by the taxpayer for the taxable year in which  
39 the committee’s recapture determination occurred.

1 (g) (1) The aggregate amount of credit that may be allocated  
2 in any fiscal year pursuant to this section and Section 23689 shall  
3 be an amount equal to the sum of subparagraphs (A), (B), and (C),  
4 ~~and less the amount specified in subparagraph (D):~~

5 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
6 year, one hundred fifty million dollars (\$150,000,000) for the  
7 2014–15 fiscal year, and two hundred million dollars  
8 (\$200,000,000) for each fiscal year from 2015–16 to 2018–19,  
9 inclusive.

10 (B) The unallocated credit amount, if any, from the preceding  
11 fiscal year.

12 (C) The amount of any previously allocated credits that have  
13 been recaptured.

14 ~~(D) The amount by which the exemptions claimed in the prior~~  
15 ~~year pursuant to Section 6377.1 plus the amounts claimed in the~~  
16 ~~prior year pursuant to this section and Sections 17053.73, 23626,~~  
17 ~~and 23689 are less than seven hundred fifty million dollars~~  
18 ~~(\$750,000,000).~~

19 *(D) The amount estimated by the Director of Finance, in*  
20 *consultation with the Franchise Tax Board and the State Board*  
21 *of Equalization, to be necessary to limit the aggregation of the*  
22 *estimated amount of exemptions claimed pursuant to Section*  
23 *6377.1 and of the amounts estimated to be claimed pursuant to*  
24 *this section and Sections 17053.73, 23626, and 23689 to no more*  
25 *than seven hundred fifty million dollars (\$750,000,000) for either*  
26 *the current fiscal year or for any of the three succeeding fiscal*  
27 *years.*

28 *(i) The Director of Finance shall notify the Chairperson of the*  
29 *Joint Legislative Budget Committee of the estimated annual*  
30 *allocation authorized by this paragraph. Any allocation pursuant*  
31 *to these provisions shall be made no sooner than 30 days after*  
32 *written notification has been provided to the Chairperson of the*  
33 *Joint Legislative Budget Committee and the chairpersons of the*  
34 *committees of each house of the Legislature that consider*  
35 *appropriation, or not sooner than whatever lesser time the*  
36 *Chairperson of the Joint Legislative Budget Committee, or his or*  
37 *her designee, may determine.*

38 *(ii) In no event shall the amount estimated in this subparagraph*  
39 *be less than zero dollars (\$0).*

1 (2) Each fiscal year, 25 percent of the aggregate amount of the  
2 credit that may be allocated pursuant to this section and Section  
3 23689 shall be reserved for small business, as defined in Section  
4 17053.73 or 23626.

5 (3) Each fiscal year, no more than 20 percent of the aggregate  
6 amount of the credit that may be allocated pursuant to this section  
7 shall be allocated to any one taxpayer.

8 (h) GO-Biz may prescribe rules and regulations as necessary to  
9 carry out the purposes of this section. Any rule or regulation  
10 prescribed pursuant to this section may be by adoption of an  
11 emergency regulation in accordance with Chapter 3.5 (commencing  
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
13 Government Code.

14 ~~(i) (1) A written agreement between GO-Biz and a taxpayer~~  
15 ~~with respect to the credit authorized by this section shall not~~  
16 ~~restrict, broaden, or otherwise alter the ability to prohibit the~~  
17 ~~taxpayer to assign that credit or any portion thereof in accordance~~  
18 ~~with Section 23663.~~

19 ~~(2)~~

20 (i) A written agreement between GO-Biz and a taxpayer with  
21 respect to the credit authorized by this section shall comply with  
22 existing law on the date the agreement is executed.

23 (j) (1) *Upon the effective date of this section, the Department*  
24 *of Finance shall estimate the total dollar amount of credits that*  
25 *will be claimed under this section with respect to each fiscal year*  
26 *from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.*

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

37 ~~(j)~~

38 (k) This section is repealed on December 1, 2025.

1     ~~SEC. 18.~~

2     *SEC. 19.* Section 17235 of the Revenue and Taxation Code is  
3 amended to read:

4     17235. (a) There shall be allowed as a deduction the amount  
5 of net interest received by the taxpayer before January 1, 2014, in  
6 payment on indebtedness of a person or entity engaged in the  
7 conduct of a trade or business located in an enterprise zone.

8     (b) A deduction shall not be allowed under this section unless  
9 at the time the indebtedness is incurred each of the following  
10 requirements are met:

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

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

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

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

20     (d) This section shall cease to be operative for taxable years  
21 beginning on or after January 1, 2014, and shall be repealed on  
22 December 1 2014.

23     ~~SEC. 19.~~

24     *SEC. 20.* Section 17267.2 of the Revenue and Taxation Code  
25 is amended to read:

26     17267.2. (a) A taxpayer may elect to treat 40 percent of the  
27 cost of any Section 17267.2 property as an expense which is not  
28 chargeable to a capital account. Any cost so treated shall be allowed  
29 as a deduction for the taxable year in which the taxpayer places  
30 the Section 17267.2 property in service.

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

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

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

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

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

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

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

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

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

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

19 (A) The property is not acquired from a person whose  
 20 relationship to the person acquiring it would result in the  
 21 disallowance of losses under Section 267 or Section 707 (b) of the  
 22 Internal Revenue Code. However, in applying Section 267(b) and  
 23 267(c) for purposes of this section, Section 267(c) (4) shall be  
 24 treated as providing that the family of an individual shall include  
 25 only the individual’s spouse, ancestors, and lineal descendants.

26 (B) The basis of the property in the hands of the person acquiring  
 27 it is not determined in whole or in part by reference to the adjusted  
 28 basis of that property in the hands of the person from whom it is  
 29 acquired.

30 (3) For purposes of this section, the cost of property does not  
 31 include that portion of the basis of the property that is determined  
 32 by reference to the basis of other property held at any time by the  
 33 person acquiring the property.

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

35 (5) This section shall not apply to any property for which the  
 36 taxpayer may not make an election for the taxable year under  
 37 Section 179 of the Internal Revenue Code because of the  
 38 application of the provisions of Section 179(d) of the Internal  
 39 Revenue Code.



1 (6) In the case of a partnership, the percentage limitation  
2 specified in subdivision (a) shall apply at the partnership level and  
3 at the partner level.

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

8 (f) Any taxpayer who elects to be subject to this section shall  
9 not be entitled to claim for the same property, the deduction under  
10 Section 179 of the Internal Revenue Code, relating to an election  
11 to expense certain depreciable business assets. However, the  
12 taxpayer may claim depreciation by any method permitted by  
13 Section 168 of the Internal Revenue Code, commencing with the  
14 taxable year following the taxable year in which the Section  
15 17267.2 property is placed in service.

16 (g) The aggregate cost of all Section 17267.2 property that may  
17 be taken into account under subdivision (a) for any taxable year  
18 shall not exceed the following applicable amount for the taxable  
19 year of the designation of the relevant enterprise zone and taxable  
20 years thereafter:

21		
22		The applicable
23		amount is:
24	Taxable year of designation .....	\$100,000
25	1st taxable year thereafter .....	100,000
26	2nd taxable year thereafter .....	75,000
27	3rd taxable year thereafter .....	75,000
28	Each taxable year thereafter .....	50,000

29  
30 (h) Any amounts deducted under subdivision (a) with respect  
31 to property subject to this section that ceases to be used in the  
32 taxpayer’s trade or business within an enterprise zone at any time  
33 before the close of the second taxable year after the property is  
34 placed in service shall be included in income in the taxable year  
35 in which the property ceases to be so used.

36 (i) This section shall cease to be operative for taxable years  
37 beginning on or after January 1, 2014, and shall be repealed on  
38 December 1, 2014.

1     ~~SEC. 20.~~

2     *SEC. 21.* Section 17267.6 of the Revenue and Taxation Code  
3 is amended to read:

4     17267.6. (a) For each taxable year beginning on or after  
5 January 1, 1998, a qualified taxpayer may elect to treat 40 percent  
6 of the cost of any Section 17267.6 property as an expense that is  
7 not chargeable to a capital account. Any cost so treated shall be  
8 allowed as a deduction for the taxable year in which the qualified  
9 taxpayer places the Section 17267.6 property in service.

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

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

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

19     (B) Be made on the qualified taxpayer's original return of the  
20 tax imposed by this part for the taxable year.

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

24     (d) (1) For purposes of this section, "Section 17267.6 property"  
25 means any recovery property that is:

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

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

32     (C) Purchased and placed in service before the date the targeted  
33 tax area designation expires, is revoked, is no longer binding, or  
34 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 Section 707(b) of the  
40 Internal Revenue Code. However, in applying Sections 267(b) and

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

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

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

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

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

18 (6) In the case of a partnership, the percentage limitation  
19 specified in subdivision (a) shall apply at the partnership level and  
20 at the partner level.

21 (e) (1) For purposes of this section, "qualified taxpayer" means  
22 a person or entity that meets both of the following:

23 (A) Is engaged in a trade or business within a targeted tax area  
24 designated pursuant to Chapter 12.93 (commencing with Section  
25 7097) of Division 7 of Title 1 of the Government Code.

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

32 (2) In the case of any pass-through entity, the determination of  
33 whether a taxpayer is a qualified taxpayer under this section shall  
34 be made at the entity level and any deduction under this section  
35 or Section 24356.6 shall be allowed to the pass-through entity and  
36 passed through to the partners or shareholders in accordance with  
37 applicable provisions of this part of Part 11 (commencing with  
38 Section 23001). For purposes of this subparagraph, the term  
39 "pass-through entity" means any partnership or S corporation.

1 (f) Any qualified taxpayer who elects to be subject to this section  
 2 shall not be entitled to claim for the same property, the deduction  
 3 under Section 179 of the Internal Revenue Code, relating to an  
 4 election to expense certain depreciable business assets. However,  
 5 the qualified taxpayer may claim depreciation by any method  
 6 permitted by Section 168 of the Internal Revenue Code,  
 7 commencing with the taxable year following the taxable year in  
 8 which the Section 17267.6 property is placed in service.

9 (g) The aggregate cost of all Section 17267.6 property that may  
 10 be taken into account under subdivision (a) for any taxable year  
 11 shall not exceed the following applicable amount for the taxable  
 12 year of the designation of the relevant targeted tax area and taxable  
 13 years thereafter:

14		
15		The applicable
16		amount is:
17	Taxable year of designation .....	\$100,000
18	1st taxable year thereafter .....	100,000
19	2nd taxable year thereafter .....	75,000
20	3rd taxable year thereafter .....	75,000
21	Each taxable year thereafter .....	50,000

22  
 23 (h) Any amounts deducted under subdivision (a) with respect  
 24 to Section 17267.6 property that ceases to be used in the qualified  
 25 taxpayer’s trade or business within a targeted tax area at any time  
 26 before the close of the second taxable year after the property is  
 27 placed in service shall be included in income in the taxable year  
 28 in which the property ceases to be so used.

29 (i) This section shall cease to be operative for taxable years  
 30 beginning on or after January 1, 2014, and shall be repealed on  
 31 December 1, 2014.

32 ~~SEC. 21:~~

33 *SEC. 22.* Section 17268 of the Revenue and Taxation Code is  
 34 amended to read:

35 17268. (a) For each taxable year beginning on or after January  
 36 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any  
 37 Section 17268 property as an expense that is not chargeable to the  
 38 capital account. Any cost so treated shall be allowed as a deduction  
 39 for the taxable year in which the taxpayer places the Section 17268  
 40 property in service.

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

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

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

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

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

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

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

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

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

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

25 (A) The property is not acquired from a person whose  
26 relationship to the person acquiring it would result in the  
27 disallowance of losses under Section 267 or 707(b) of the Internal  
28 Revenue Code (but, in applying Section 267(b) and Section 267(c)  
29 of the Internal Revenue Code for purposes of this section, Section  
30 267(c)(4) of the Internal Revenue Code shall be treated as  
31 providing that the family of an individual shall include only his or  
32 her spouse, ancestors, and lineal descendants).

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

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

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

39 (3) For purposes of this section, the cost of property does not  
40 include that portion of the basis of the property that is determined

1 by reference to the basis of other property held at any time by the  
 2 person acquiring the property.

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

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

8 (6) In the case of a partnership, the dollar limitation in  
 9 subdivision (f) shall apply at the partnership level and at the partner  
 10 level.

11 (7) This section shall not apply to any property described in  
 12 Section 168(f) of the Internal Revenue Code, relating to property  
 13 to which Section 168 of the Internal Revenue Code does not apply.

14 (e) For purposes of this section:

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

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

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

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

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

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

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

11 (f) The aggregate cost of all Section 17268 property that may  
12 be taken into account under subdivision (a) for any taxable year  
13 shall not exceed the following applicable amounts for the taxable  
14 year of the designation of the relevant LAMBRA and taxable years  
15 thereafter:

16		
17		The applicable
18		amount is:
19	Taxable year of designation .....	\$100,000
20	1st taxable year thereafter .....	100,000
21	2nd taxable year thereafter .....	75,000
22	3rd taxable year thereafter .....	75,000
23	Each taxable year thereafter .....	50,000
24		

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

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

32 (2) At the close of the second taxable year, if the taxpayer has  
33 not increased the number of its employees as determined by  
34 paragraph (2) of subdivision (e), then the amount of the deduction  
35 previously claimed shall be added to the taxpayer’s taxable income  
36 for the taxpayer’s second taxable year.

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

1 (j) This section shall cease to be operative for taxable years  
2 beginning on or after January 1, 2014, and shall be repealed on  
3 December 1, 2014.

4 ~~SEC. 22.~~

5 *SEC. 23.* Section 17276.2 of the Revenue and Taxation Code  
6 is amended to read:

7 17276.2. (a) The term “qualified taxpayer” as used in Section  
8 17276.1 includes a person or entity engaged in the conduct of a  
9 trade or business within an enterprise zone designated pursuant to  
10 Chapter 12.8 (commencing with Section 7070) of Division 7 of  
11 Title 1 of the Government Code. For purposes of this subdivision,  
12 all of the following shall apply:

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

19 (2) For purposes of this subdivision:

20 (A) “Net operating loss” means the loss determined under  
21 Section 172 of the Internal Revenue Code, as modified by Section  
22 17276.1, attributable to the taxpayer’s business activities within  
23 the enterprise zone (as defined in Chapter 12.8 (commencing with  
24 Section 7070) of Division 7 of Title 1 of the Government Code)  
25 prior to the enterprise zone expiration date. That attributable loss  
26 shall be determined in accordance with Chapter 17 (commencing  
27 with Section 25101) of Part 11, modified for purposes of this  
28 subdivision, as follows:

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

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

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

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



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

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

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

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

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

28 (D) "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 this  
32 paragraph shall apply to taxable years beginning on or after January  
33 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 operating  
36 loss and any taxable year to which that net operating loss may be  
37 carried, designate on the original return filed for each year the  
38 section which applies to that taxpayer with respect to that net  
39 operating loss. If the taxpayer is eligible to qualify under more

1 than one section, the designation is to be made after taking into  
2 account subdivision (c).

3 (c) If a taxpayer is eligible to qualify under this section and  
4 either Section 17276.4, 17276.5, or 17276.6 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 17276, the amount of the loss  
9 determined under this section or Section 17276.4, 17276.5, or  
10 17276.6 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 17276.1.

13 (e) This section shall cease to be operative for taxable years  
14 beginning on or after January 1, 2014, and shall be repealed on  
15 December 1, 2014.

16 ~~SEC. 23.~~

17 *SEC. 24.* Section 17276.5 of the Revenue and Taxation Code  
18 is amended to read:

19 17276.5. (a) For each taxable year beginning on or after  
20 January 1, 1995, the term “qualified taxpayer” as used in Section  
21 17276.1 includes a taxpayer engaged in the conduct of a trade or  
22 business within a LAMBRA. For purposes of this subdivision, all  
23 of the following shall apply:

24 (1) A net operating loss shall not be a net operating loss  
25 carryback for any taxable year, and a net operating loss for any  
26 taxable year beginning on or after the date the area in which the  
27 taxpayer conducts a trade or business is designated a LAMBRA  
28 shall be a net operating loss carryover to each following taxable  
29 year that ends before the LAMBRA expiration date or to each of  
30 the 15 taxable years following the taxable year of loss, if longer.

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

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

39 (A) The net increase in the number of jobs shall be determined  
40 by subtracting the total number of full-time employees (defined

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

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

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

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

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

28 (4) “Net operating loss” means the loss determined under  
29 Section 172 of the Internal Revenue Code, as modified by Section  
30 17276.1, attributable to the taxpayer’s business activities within a  
31 LAMBRA prior to the LAMBRA expiration date. The attributable  
32 loss shall be determined in accordance with Chapter 17  
33 (commencing with Section 25101) of Part 11, modified for  
34 purposes of this section as follows:

35 (A) Loss shall be apportioned to a LAMBRA by multiplying  
36 total loss from the business by a fraction, the numerator of which  
37 is the property factor plus the payroll factor, and the denominator  
38 of which is 2.

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

1 (5) A net operating loss carryover shall be a deduction only with  
2 respect to the taxpayer's business income attributable to a  
3 LAMBRA.

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

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

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

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

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

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

37 (b) A taxpayer who qualifies as a "qualified taxpayer" under  
38 one or more sections shall, for the taxable year of the net operating  
39 loss and any taxable year to which that net operating loss may be  
40 carried, designate on the original return filed for each year the

1 section that applies to that taxpayer with respect to that net  
2 operating loss. If the taxpayer is eligible to qualify under more  
3 than one section, the designation is to be made after taking into  
4 account subdivision (c).

5 (c) If a taxpayer is eligible to qualify under this section and  
6 either Section 17276.2, 17276.4, or 17276.6 as a “qualified  
7 taxpayer,” with respect to a net operating loss in a taxable year,  
8 the taxpayer shall designate which section is to apply to the  
9 taxpayer.

10 (d) Notwithstanding Section 17276, the amount of the loss  
11 determined under this section or Section 17276.2, 17276.4, or  
12 17276.6 shall be the only net operating loss allowed to be carried  
13 over from that taxable year and the designation under subdivision  
14 (b) shall be included in the election under Section 17276.1.

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

17 (f) This section shall cease to be operative for taxable years  
18 beginning on or after January 1, 2014, and shall be repealed on  
19 December 1, 2014.

20 ~~SEC. 24:~~

21 *SEC. 25.* Section 17276.6 of the Revenue and Taxation Code  
22 is amended to read:

23 17276.6. (a) For each taxable year beginning on or after  
24 January 1, 1998, the term “qualified taxpayer” as used in Section  
25 17276.1 includes a person or entity that meets both of the  
26 following:

27 (1) Is engaged in a trade or business within a targeted tax area  
28 designated pursuant to Chapter 12.93 (commencing with Section  
29 7097) of Division 7 of Title 1 of the 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 under this section  
37 shall be made at the 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 to 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 each  
6 of the 15 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 Section  
9 17276.1, attributable to the qualified taxpayer’s business activities  
10 within the targeted tax area (as defined in Chapter 12.93  
11 (commencing with Section 7097) of Division 7 of Title 1 of the  
12 Government Code) prior to the targeted tax area expiration date.  
13 That attributable loss shall be determined in accordance with  
14 Chapter 17 (commencing with Section 25101) of Part 11, modified  
15 for 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 numerator  
18 of which is the property factor plus the payroll factor, and the  
19 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 with  
22 respect to the qualified taxpayer’s business income attributable to  
23 the targeted tax area as defined in Chapter 12.93 (commencing  
24 with Section 7097) of Division 7 of Title 1 of the Government  
25 Code.

26 (4) Attributable income shall be that portion of the qualified  
27 taxpayer’s California source business income that is apportioned  
28 to the targeted tax area. For that purpose, the qualified taxpayer’s  
29 business income attributable to sources in this state first shall be  
30 determined in accordance with Chapter 17 (commencing with  
31 Section 25101) of Part 11. 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 of Part 11,  
34 modified for purposes of this subdivision as follows:

35 (A) Business income shall be apportioned to the targeted tax  
36 area by multiplying the total business income of the taxpayer by  
37 a fraction, the numerator of which is the property factor plus the  
38 payroll factor, and the denominator of which is two. For purposes  
39 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 value  
5 of all the taxpayer's real and tangible personal property owned or  
6 rented and used in this state during the taxable year.

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

12 (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 existence  
15 for purposes of computing the limitation specified in subparagraph  
16 (B) and allowing a net operating loss deduction.

17 (5) "Targeted tax area expiration date" means the date the  
18 targeted tax area designation expires, is revoked, is no longer  
19 binding, or becomes inoperative.

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

28 (d) If a taxpayer is eligible to qualify under this section and  
29 either Section 17276.2, 17276.4, or 17276.5 as a "qualified  
30 taxpayer," with respect to a net operating loss in a taxable year,  
31 the taxpayer shall designate which section is to apply to the  
32 taxpayer.

33 (e) Notwithstanding Section 17276, the amount of the loss  
34 determined under this section or Section 17276.2, 17276.4, or  
35 17276.5 shall be the only net operating loss allowed to be carried  
36 over from that taxable year and the designation under subdivision  
37 (c) shall be included in the election under Section 17276.1.

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

1 (g) This section shall cease to be operative for taxable years  
2 beginning on or after January 1, 2014, and shall be repealed on  
3 December 1, 2014.

4 ~~SEC. 25.~~

5 *SEC. 26.* Section 18410.2 is added to the Revenue and Taxation  
6 Code, to read:

7 18410.2. (a) The California Competes Tax Credit Committee  
8 is hereby established. The committee shall consist of the Treasurer,  
9 the Director of Finance, *and* the Director of the Governor's Office  
10 of Business and Economic Development, ~~and an appointee of the~~  
11 ~~Senate and Assembly~~, or their designated representatives, *and one*  
12 *appointee each from the Senate and the Assembly.*

13 (b) For purposes of Sections 17059.2 and 23689, the California  
14 Competes Tax Credit Committee shall do all of the following:

15 (1) Approve or reject any written agreement for a tax credit  
16 allocation by resolution at a duly noticed public meeting held in  
17 accordance with the Bagley-Keene Open Meeting Act (Article 9  
18 (commencing with Section 11120) of Chapter 1 of Part 1 of  
19 Division 3 of Title 2 of the Government Code), but only after  
20 receipt of the fully executed written agreement between the  
21 taxpayer and the Governor's Office of Business and Economic  
22 Development.

23 (2) Approve or reject any recommendation to recapture, in whole  
24 or in part, a tax credit allocation by resolution at a duly noticed  
25 public meeting held in accordance with the Bagley-Keene Open  
26 Meeting Act (Article 9 (commencing with Section 11120) of  
27 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
28 Code), but only after receipt of the recommendation from the  
29 Governor's Office of Business and Economic Development  
30 pursuant to the terms of the fully executed written agreement.

31 ~~SEC. 26.~~

32 *SEC. 27.* Section 19136.8 of the Revenue and Taxation Code  
33 is amended to read:

34 19136.8. (a) No addition to tax shall be made under Section  
35 19136 with respect to any underpayment of an installment to the  
36 extent that the underpayment was created or increased by the  
37 disallowance of a credit under subdivision (g) of Section 17053.80.

38 (b) No addition to tax shall be made under Section 19142 with  
39 respect to any underpayment of an installment to the extent that



1 the underpayment was created or increased by the disallowance  
2 of a credit under subdivision (g) of Section 23623.

3 (c) The Franchise Tax Board shall adopt procedures, forms, and  
4 instructions necessary to implement this section in a reasonable  
5 manner.

6 (d) This section shall cease to be operative for taxable years  
7 beginning on or after January 1, 2014, and shall be repealed on  
8 December 1, 2014.

9 ~~SEC. 27.~~

10 *SEC. 28.* Section 23612.2 of the Revenue and Taxation Code  
11 is amended to read:

12 23612.2. (a) There shall be allowed as a credit against the  
13 “tax” (as defined by Section 23036) for the taxable year an amount  
14 equal to the sales or use tax paid or incurred during the taxable  
15 year by the taxpayer in connection with the taxpayer’s purchase  
16 of qualified property before January 1, 2014.

17 (b) For purposes of this section:

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

20 (2) “Qualified property” means:

21 (A) Any of the following:

22 (i) Machinery and machinery parts used for fabricating,  
23 processing, assembling, and manufacturing.

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

26 (iii) Machinery and machinery parts used for either of the  
27 following:

28 (I) Air pollution control mechanisms.

29 (II) Water pollution control mechanisms.

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

33 (v) Motion picture manufacturing equipment central to  
34 production and postproduction, including, but not limited to,  
35 cameras, audio recorders, and digital image and sound processing  
36 equipment.

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

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

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

6 (3) “Enterprise zone” means the area designated as an enterprise  
7 zone pursuant to Chapter 12.8 (commencing with Section 7070)  
8 of Division 7 of Title 1 of the Government Code as it read on the  
9 effective date of the act amending this section.

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

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

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

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

32 (2) Attributable income shall be that portion of the taxpayer’s  
33 California source business income that is apportioned to the  
34 enterprise zone. For that purpose, the taxpayer’s business income  
35 attributable to sources in this state first shall be determined in  
36 accordance with Chapter 17 (commencing with Section 25101).  
37 That business income shall be further apportioned to the enterprise  
38 zone in accordance with Article 2 (commencing with Section  
39 25120) of Chapter 17, modified for purposes of this section in  
40 accordance with paragraph (3).

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

6 (A) 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 enterprise zone during  
9 the taxable year, and the denominator of which is the average value  
10 of all the taxpayer's real and tangible personal property owned or  
11 rented and used in this state during the taxable year.

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

17 (4) The portion of any credit remaining, if any, after application  
18 of this subdivision, shall be carried over to succeeding taxable  
19 years if necessary, until the credit is exhausted, as if it were an  
20 amount exceeding the "tax" for the taxable year, as provided in  
21 subdivision (d). However, the portion of any credit remaining for  
22 carryover to taxable years beginning on January 1, 2014, if any,  
23 after application of this subdivision, shall be carried over only to  
24 the succeeding five taxable years if necessary, until the credit is  
25 exhausted, as if it were an amount exceeding the "tax" for the  
26 taxable year, as provided in subdivision (d).

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

30 (h) This section is repealed on December 1, 2014.

31 ~~SEC. 28.~~

32 *SEC. 29.* Section 23622.7 of the Revenue and Taxation Code  
33 is amended to read:

34 23622.7. (a) There shall be allowed a credit against the "tax"  
35 (as defined by Section 23036) to a taxpayer who employs a  
36 qualified employee in an enterprise zone during the taxable year.  
37 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

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

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

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

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

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

13 (iv) Is any of the following:

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

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

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

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

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

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

1 individual who has not received written notification but whose  
2 employer has made a public announcement of the closure or layoff.

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

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

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

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

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

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

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

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

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

39 (aa) Federal Supplemental Security Income benefits.

40 (bb) Aid to Families with Dependent Children.

1 (cc) CalFresh benefits.

2 (dd) State and local general assistance.

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

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

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

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

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

24 (5) "Taxpayer" means a corporation engaged in a trade or  
25 business within an enterprise zone designated pursuant to Chapter  
26 12.8 (commencing with Section 7070) of Division 7 of Title 1 of  
27 the Government Code.

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

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

32 (1) Obtain from the Employment Development Department, as  
33 permitted by federal law, the local county or city Job Training  
34 Partnership Act administrative entity, the local county GAIN office  
35 or social services agency, or the local government administering  
36 the enterprise zone, a certification that provides that a qualified  
37 employee meets the eligibility requirements specified in clause  
38 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
39 Employment Development Department may provide preliminary  
40 screening and referral to a certifying agency. The Employment

1 Development Department shall develop a form for this purpose.  
2 The Department of Housing and Community Development shall  
3 develop regulations governing the issuance of certificates by local  
4 governments pursuant to subdivision (a) of Section 7086 of the  
5 Government Code.

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

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

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

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

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

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

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

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

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



1 part for the taxable year in which that employment is terminated  
2 shall be increased by an amount equal to the credit allowed under  
3 subdivision (a) for that taxable year and all prior taxable years  
4 attributable to qualified wages paid or incurred with respect to that  
5 employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (h) The credit allowable under this section shall be reduced by  
8 the credit allowed under Sections 23623.5, 23625, and 23646  
9 claimed for the same employee. The credit shall also be reduced  
10 by the federal credit allowed under Section 51 of the Internal  
11 Revenue Code.

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

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

22 (j) (1) The amount of the credit otherwise allowed under this  
23 section and Section 23612.2, including any credit carryover from  
24 prior years, that may reduce the “tax” for the taxable year shall  
25 not exceed the amount of tax which would be imposed on the  
26 taxpayer’s business income attributable to the enterprise zone  
27 determined as if that attributable income represented all of the  
28 income of the taxpayer subject to 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 enterprise zone. For that purpose, the taxpayer’s business  
32 attributable to sources in this state first shall be determined in  
33 accordance with Chapter 17 (commencing with Section 25101).  
34 That business income shall be further apportioned to the enterprise  
35 zone in accordance with Article 2 (commencing with Section  
36 25120) of Chapter 17, modified for purposes of this section in  
37 accordance with paragraph (3).

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

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

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

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

14 (4) The portion of any credit remaining, if any, after application  
15 of this subdivision, shall be carried over to succeeding taxable  
16 years, if necessary, until the credit is exhausted, as if it were an  
17 amount exceeding the "tax" for the taxable year, as provided in  
18 subdivision (i). However, the portion of any credit remaining for  
19 carryover to taxable years beginning on or after January 1, 2014,  
20 if any, after application of this subdivision, shall be carried over  
21 only to the succeeding five taxable years if necessary, until the  
22 credit is exhausted, as if it were an amount exceeding the "tax"  
23 for the taxable year, as provided in subdivision (i).

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

26 (l) (1) Except as provided in paragraph (2), this section shall  
27 cease to be operative for taxable years beginning on or after January  
28 1, 2014, and shall be repealed on December 1, 2019.

29 (2) The section shall continue to apply with respect to qualified  
30 employees who are employed by the qualified taxpayer within the  
31 enterprise zone within the 60-month period immediately preceding  
32 January 1, 2014, and qualified wages paid or incurred with respect  
33 to those qualified employees shall continue to qualify for the credit  
34 under this section for taxable years beginning on or after January  
35 1, 2014, in accordance with this section, as amended by the act  
36 adding this subdivision.

37 ~~SEC. 29.~~

38 *SEC. 30.* Section 23622.8 of the Revenue and Taxation Code  
39 is amended to read:

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

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

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

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

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

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

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

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

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

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

33 (D) Qualified wages do not include any wages paid or incurred  
34 by the qualified taxpayer on or after the manufacturing  
35 enhancement area expiration date. However, wages paid or incurred  
36 with respect to qualified employees who are employed by the  
37 qualified taxpayer within the manufacturing enhancement area  
38 within the 60-month period prior to the manufacturing enhancement  
39 area expiration date shall continue to qualify for the credit under  
40 this section after the manufacturing enhancement area expiration

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

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

8 (3) “Manufacturing enhancement area” means an area designated  
9 pursuant to Section 7073.8 of the Government Code according to  
10 the procedures of Chapter 12.8 (commencing with Section 7070)  
11 of Division 7 of Title 1 of the Government Code.

12 (4) “Manufacturing enhancement area expiration date” means  
13 the date the manufacturing enhancement area designation expires,  
14 is no longer binding, becomes inoperative, or is repealed.

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

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

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

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

27 (C) Who is any of the following immediately preceding the  
28 individual’s commencement of employment with the qualified  
29 taxpayer:

30 (i) An individual who has been determined eligible for services  
31 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
32 1501 et seq.) or its successor.

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

38 (iii) Any individual who has been certified eligible by the  
39 Employment Development Department under the federal Targeted

1 Jobs Tax Credit Program, or its successor, whether or not this  
2 program is in effect.

3 (6) “Qualified taxpayer” means any corporation engaged in a  
4 trade or business within a manufacturing enhancement area  
5 designated pursuant to Section 7073.8 of the Government Code  
6 and that meets all of the following requirements:

7 (A) Is engaged in those lines of business described in Codes  
8 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
9 inclusive, of the Standard Industrial Classification (SIC) Manual  
10 published by the United States Office of Management and Budget,  
11 1987 edition.

12 (B) At least 50 percent of the qualified taxpayer’s workforce  
13 hired after the designation of the manufacturing enhancement area  
14 is composed of individuals who, at the time of hire, are residents  
15 of the county in which the manufacturing enhancement area is  
16 located.

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

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

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

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

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

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

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

1 disadvantaged individual continues to be employed in that trade  
2 or business.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

39 (C) For purposes of paragraph (1), the employment relationship  
40 between the qualified taxpayer and a qualified disadvantaged

1 individual 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 disadvantaged individual  
5 continues to be 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 disadvantaged individual continues to be employed in that trade  
9 or business and the qualified taxpayer retains a substantial interest  
10 in that trade or 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 amount  
13 of any credit allowable under this part.

14 (e) The credit shall be reduced by the credit allowed under  
15 Section 23621. The credit shall also be reduced by the federal  
16 credit allowed under Section 51 of the Internal Revenue Code.

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

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

27 (g) (1) The amount of credit otherwise allowed under this  
28 section, including prior year credit carryovers, that may reduce  
29 the “tax” for the taxable year shall not exceed the amount of tax  
30 that would be imposed on the qualified taxpayer’s business income  
31 attributed to a manufacturing enhancement area determined as if  
32 that attributed income represented all of the net income of the  
33 qualified taxpayer subject to tax under this part.

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

1 2 (commencing with Section 25120) of Chapter 17, modified for  
2 purposes of this section in accordance with paragraph (3).

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

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

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

20 (4) The portion of any credit remaining, if any, after application  
21 of this subdivision, shall be carried over to succeeding taxable  
22 years, if necessary, until the credit is exhausted, as if it were an  
23 amount exceeding the "tax" for the taxable year, as provided in  
24 subdivision (g). However, the portion of any credit remaining for  
25 carryover to taxable years beginning on or after January 1, 2014,  
26 if any, after application of this subdivision, shall be carried over  
27 only to the succeeding five taxable years if necessary, until the  
28 credit is exhausted, as if it were an amount exceeding the "tax"  
29 for the taxable year, as provided in subdivision (g).

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

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

35 (1) Obtain from the Employment Development Department, as  
36 permitted by federal law, the local county or city Job Training  
37 Partnership Act administrative entity, the local county GAIN office  
38 or social services agency, or the local government administering  
39 the manufacturing enhancement area, a certification that provides  
40 that a qualified disadvantaged individual meets the eligibility

1 requirements specified in paragraph (5) of subdivision (b). The  
 2 Employment Development Department may provide preliminary  
 3 screening and referral to a certifying agency. The Department of  
 4 Housing and Community Development shall develop regulations  
 5 governing the issuance of certificates pursuant to subdivision (d)  
 6 of Section 7086 of the Government Code and shall develop forms  
 7 for this purpose.

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

10 (j) (1) Except as provided in paragraph (2), this section shall  
 11 cease to be operative for taxable years beginning on or after January  
 12 1, 2014, and shall be repealed on December 1, 2019.

13 (2) The section shall continue to apply with respect to qualified  
 14 employees who are employed by the qualified taxpayer within the  
 15 manufacturing enhancement area within the 60-month period  
 16 immediately preceding January 1, 2014, and qualified wages paid  
 17 or incurred with respect to those qualified employees shall continue  
 18 to qualify for the credit under this section for taxable years  
 19 beginning on or after January 1, 2014, in accordance with this  
 20 section, as amended by the act adding this subdivision.

21 ~~SEC. 30.~~

22 *SEC. 31.* Section 23623 of the Revenue and Taxation Code,  
 23 as added by Section 8 of Chapter 10 of the ~~3rd~~ *Third* Extraordinary  
 24 Session of the Statutes of 2009, is repealed.

25 ~~SEC. 31.~~

26 *SEC. 32.* Section 23623 of the Revenue and Taxation Code,  
 27 as added by Section 8 of Chapter 17 of the ~~3rd~~ *Third* Extraordinary  
 28 Session of the Statutes of 2009, is amended to read:

29 23623. (a) For each taxable year beginning on or after January  
 30 1, 2009, there shall be allowed as a credit against the “tax,” as  
 31 defined in Section 23036, three thousand dollars (\$3,000) for each  
 32 net increase in qualified full-time employees, as specified in  
 33 subdivision (c), hired during the taxable year by a qualified  
 34 employer.

35 (b) For purposes of this section:

36 (1) “Acquired” includes any gift, inheritance, transfer incident  
 37 to divorce, or any other transfer, whether or not for consideration.

38 (2) “Qualified full-time employee” means:

1 (A) A qualified employee who was paid qualified wages during  
2 the taxable year by the qualified employer for services of not less  
3 than an average of 35 hours per week.

4 (B) A qualified employee who was a salaried employee and  
5 was paid compensation during the taxable year for full-time  
6 employment, within the meaning of Section 515 of the Labor Code,  
7 by the qualified employer.

8 (3) A “qualified employee” shall not include any of the  
9 following:

10 (A) An employee certified as a qualified employee in an  
11 enterprise zone designated in accordance with Chapter 12.8  
12 (commencing with Section 7070) of Division 7 of Title 1 of the  
13 Government Code.

14 (B) An employee certified as a qualified disadvantaged  
15 individual in a manufacturing enhancement area designated in  
16 accordance with Section 7073.8 of the Government Code.

17 (C) An employee certified as a qualified employee in a targeted  
18 tax area designated in accordance with Section 7097 of the  
19 Government Code.

20 (D) An employee certified as a qualified disadvantaged  
21 individual or a qualified displaced employee in a local agency  
22 military base recovery area (LAMBRA) designated in accordance  
23 with Chapter 12.97 (commencing with Section 7105) of Division  
24 7 of Title 1 of the Government Code.

25 (E) An employee whose wages are included in calculating any  
26 other credit allowed under this part.

27 (4) “Qualified employer” means a taxpayer that, as of the last  
28 day of the preceding taxable year, employed a total of 20 or fewer  
29 employees.

30 (5) “Qualified wages” means wages subject to Division 6  
31 (commencing with Section 13000) of the Unemployment Insurance  
32 Code.

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

34 (A) In the case of a full-time employee paid hourly qualified  
35 wages, “annual full-time equivalent” means the total number of  
36 hours worked for the taxpayer by the employee (not to exceed  
37 2,000 hours per employee) divided by 2,000.

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

1 (c) The net increase in qualified full-time employees of a  
2 qualified employer shall be determined as provided by this  
3 subdivision:

4 (1) (A) The net increase in qualified full-time employees shall  
5 be determined on an annual full-time equivalent basis by  
6 subtracting from the amount determined in subparagraph (C) the  
7 amount determined in subparagraph (B).

8 (B) The total number of qualified full-time employees employed  
9 in the preceding taxable year by the taxpayer and by any trade or  
10 business acquired by the taxpayer during the current taxable year.

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

14 (2) For taxpayers who first commence doing business in this  
15 state during the taxable year, the number of full-time employees  
16 for the immediately preceding prior taxable year shall be zero.

17 (d) In the case where the credit allowed by this section exceeds  
18 the “tax,” the excess may be carried over to reduce the “tax” in  
19 the following year, and succeeding seven years if necessary, until  
20 the credit is exhausted.

21 (e) Any deduction otherwise allowed under this part for qualified  
22 wages shall not be reduced by the amount of the credit allowed  
23 under this section.

24 (f) For purposes of this section:

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

28 (2) In determining whether the taxpayer has first commenced  
29 doing business in this state during the taxable year, the provisions  
30 of subdivision (f) of Section 17276, without application of  
31 paragraph (7) of that subdivision, shall apply.

32 (g) (1) (A) Credit under this section and Section 17053.80 shall  
33 be allowed only for credits claimed on timely filed original returns  
34 received by the Franchise Tax Board on or before the cut-off date  
35 established by the Franchise Tax Board.

36 (B) For purposes of this paragraph, the cut-off date shall be the  
37 last day of the calendar quarter within which the Franchise Tax  
38 Board estimates it will have received timely filed original returns  
39 claiming credits under this section and Section 17053.80 that

1 cumulatively total four hundred million dollars (\$400,000,000)  
2 for all taxable years.

3 (2) The date a return is received shall be determined by the  
4 Franchise Tax Board.

5 (3) (A) The determinations of the Franchise Tax Board with  
6 respect to the cut-off date, the date a return is received, and whether  
7 a return has been timely filed for purposes of this subdivision may  
8 not be reviewed in any administrative or judicial proceeding.

9 (B) Any disallowance of a credit claimed due to a determination  
10 under this subdivision, including the application of the limitation  
11 specified in paragraph (1), shall be treated as a mathematical error  
12 appearing on the return. Any amount of tax resulting from such  
13 disallowance may be assessed by the Franchise Tax Board in the  
14 same manner as provided by Section 19051.

15 (4) The Franchise Tax Board shall periodically provide notice  
16 on its Web site with respect to the amount of credit under this  
17 section and Section 17053.80 claimed on timely filed original  
18 returns received by the Franchise Tax Board.

19 (h) (1) The Franchise Tax Board may prescribe rules, guidelines  
20 or procedures necessary or appropriate to carry out the purposes  
21 of this section, including any guidelines regarding the limitation  
22 on total credits allowable under this section and Section 17053.80  
23 and guidelines necessary to avoid the application of paragraph (2)  
24 of subdivision (f) through split-ups, shell corporations, partnerships,  
25 tiered ownership structures, or otherwise.

26 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
27 Division 3 of Title 2 of the Government Code does not apply to  
28 any standard, criterion, procedure, determination, rule, notice, or  
29 guideline established or issued by the Franchise Tax Board  
30 pursuant to this section.

31 (i) This section shall cease to be operative for taxable years  
32 beginning on or after January 1, 2014, and shall be repealed on  
33 December 1, 2014.

34 ~~SEC. 32.~~

35 *SEC. 33.* Section 23626 is added to the Revenue and Taxation  
36 Code, to read:

37 23626. (a) (1) For each taxable year beginning on or after  
38 January 1, 2014, and before January 1, 2019, there shall be allowed  
39 to a qualified taxpayer that hires a qualified full-time employee  
40 and pays or incurs qualified wages attributable to work performed

1 by the qualified full-time employee in a designated census tract  
2 or former enterprise zone, and that receives a tentative credit  
3 reservation for that qualified full-time employee, a credit against  
4 the “tax,” as defined by Section 23036, in an amount calculated  
5 under this section.

6 (2) The amount of the credit allowable under this section for a  
7 taxable year shall be equal to the product of the tentative credit  
8 amount for the taxable year and the applicable percentage for the  
9 taxable year.

10 (3) (A) If a qualified taxpayer relocates to a designated census  
11 tract or former enterprise zone, the qualified taxpayer shall be  
12 allowed a credit with respect to qualified wages for each qualified  
13 full-time employee who is employed within the new location only  
14 if the qualified taxpayer provides each employee at the previous  
15 location or locations a written offer of employment at the new  
16 location in the designated census tract or former enterprise zone  
17 with comparable compensation.

18 (B) For purposes of this paragraph, “relocates to a designated  
19 census tract or former enterprise zone ” means an increase in the  
20 number of qualified full-time employees, employed by a qualified  
21 taxpayer, within a designated census tract or tracts or former  
22 enterprise-zone zones within a 12-month period in which there is  
23 a decrease in the number of full-time employees, employed by the  
24 qualified taxpayer in this state, but outside of designated census  
25 tracts or former enterprise zone.

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

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

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

32 (b) For purposes of this section:

33 (1) The “tentative credit amount” for a taxable year shall be  
34 equal to the product of the applicable credit percentage for each  
35 qualified full-time employee and the qualified wages paid by the  
36 qualified taxpayer during the taxable year to that qualified full-time  
37 employee.

38 (2) The “applicable percentage” for a taxable year shall be equal  
39 to a fraction, the numerator of which is the net increase in the total  
40 number of full-time employees employed in this state during the



1 taxable year, determined on an annual full-time equivalent basis,  
2 as compared with the total number of full-time employees  
3 employed in this state during the base year, determined on the  
4 same basis, and the denominator of which shall be the total number  
5 of qualified full-time employees employed in this state during the  
6 taxable year. The applicable percentage shall not exceed 100  
7 percent.

8 (3) The “applicable credit percentage” means the credit  
9 percentage for the calendar year during which a qualified full-time  
10 employee was first employed by the qualified taxpayer. The  
11 applicable credit percentage for all calendar years shall be 35  
12 percent.

13 (4) “Base year” means the 2013 taxable year, or in the case of  
14 a qualified taxpayer who first hires a qualified full-time employee  
15 in a taxable year beginning on or after January 2015, the taxable  
16 year immediately preceding the taxable year in which the qualified  
17 full-time employee was hired.

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

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

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

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

28 (7) “Designated census tract” means a census tract within the  
29 state that is determined by the Department of Finance to have a  
30 civilian unemployment rate that is within the top 25 percent of all  
31 census tracts within the state and has a poverty rate within the top  
32 25 percent of all census tracts within the state, as prescribed in  
33 Section 13073.5 of the Government Code.

34 (8) “Former enterprise zone” means an enterprise zone  
35 designated *as of December 31, 2011, and any expansion of an*  
36 *enterprise zone prior to December 31, 2012, under former Chapter*  
37 *12.8 (commencing with former ~~section 7070~~ Section 7070) of*  
38 *Division 7 of Title 1 of the Government ~~Code~~ Code, as in effect*  
39 *on December 31, ~~2011, 2012,~~ excluding any census tract within*  
40 *an enterprise zone that is identified by the Department of Finance*

1 pursuant to Section 13073.5 of the Government Code as a census  
2 tract within the lowest quartile of census tracts with the lowest  
3 civilian unemployment *and poverty*.

4 (9) “Minimum wage” means the wage established pursuant to  
5 Chapter 1 (commencing with Section 1171) of Part 4 of Division  
6 2 of the Labor Code.

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

9 (i) Performs at least 50 percent of his or her services for the  
10 qualified taxpayer during the taxable year in a designated census  
11 tract *or former enterprise zone*.

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

14 (iii) Is hired by the qualified taxpayer on or after January 1,  
15 2014.

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

21 (v) Satisfies either of the following conditions:

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

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

27 (vii) Upon commencement of employment with the qualified  
28 taxpayer, satisfies any of the following conditions:

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

38 (II) Is a veteran that had not been employed since separation  
39 from service in the Armed Forces of the United States.

1 (III) Was a recipient of the credit allowed under Section 32 of  
2 the Internal Revenue Code, relating to earned income, as applicable  
3 for federal purposes, for the previous taxable year.

4 (B) An individual may only be considered a qualified full-time  
5 employee for the period of time commencing with the date the  
6 individual is first employed by the qualified taxpayer and ending  
7 60 months thereafter.

8 (11) (A) “Qualified taxpayer” means a corporation engaged in  
9 a trade or business within designated census tract or former  
10 enterprise zone that, during the taxable year, pays or incurs  
11 qualified wages.

12 ~~(B) “Qualified small business taxpayer” means a qualified~~  
13 ~~taxpayer that is a small business.~~

14 ~~(C)~~

15 (B) In the case of any pass-thru entity, the determination of  
16 whether a taxpayer is a qualified taxpayer ~~or a qualified small~~  
17 ~~business taxpayer~~ under this section shall be made at the entity  
18 level and any credit under this section or Section 17053.73 shall  
19 be allowed to the pass-thru entity and passed through to the partners  
20 and shareholders in accordance with applicable provisions of this  
21 part or Part 10 (commencing with Section 17001). For purposes  
22 of this subdivision, the term “pass-thru entity” means any  
23 partnership or “S” corporation.

24 ~~(D)~~

25 (C) “Qualified taxpayer” shall not include any of the following:

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

30 (ii) Employers that provide retail trade services, as described  
31 in Sector 44-45 of the North American Industry Classification  
32 System (NAICS) published by the United States Office of  
33 Management and Budget, 2012 edition.

34 (iii) Employers that are primarily engaged in providing food  
35 services, as described in Code 711110, 722511, 722513, 722514,  
36 or 722515 of the North American Industry Classification System  
37 (NAICS) published by the United States Office of Management  
38 and Budget, 2012 edition.

39 (iv) Employers that are primarily engaged in services as  
40 described in Code 713210, 721120, or 722410 of the North

1 American Industry Classification System (NAICS) published by  
2 the United States Office of Management and Budget, 2012 edition.

3 ~~(E)~~

4 (D) Subparagraph~~(D)~~ (C) shall not apply to a taxpayer that is  
5 a “small business.”

6 (12) “Qualified wages” means those wages that meet all of the  
7 following requirements:

8 (A) That portion of wages paid or incurred by the qualified  
9 taxpayer during the taxable year to each qualified full-time  
10 employee that exceeds 150 percent of minimum wage, but does  
11 not exceed 350 percent of the minimum wage.

12 (B) Wages paid or incurred during the 60-month period  
13 beginning with the first day the qualified full-time employee  
14 commences employment with the qualified taxpayer. In the case  
15 of any employee who is reemployed, including regularly occurring  
16 seasonal increase, in the trade or business operations of the  
17 qualified taxpayer, this reemployment shall not be treated as  
18 constituting commencement of employment for purposes of this  
19 section.

20 (C) Except as provided in paragraph (3) of subdivision~~(j)~~; (m),  
21 qualified wages shall not include any wages paid or incurred by  
22 the qualified taxpayer on or after the date that the Department of  
23 Finance’s redesignation of designated census tracts is effective,  
24 as provided in paragraph (2) of subdivision~~(e)~~; (g), so that a census  
25 tract is no longer determined to be a designated census tract.

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

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

33 (B) (i) For purposes of this paragraph, “gross receipts, less  
34 returns and allowances reportable to this state,” means the sum of  
35 the gross receipts from the production of business income, as  
36 defined in subdivision (a) of Section 25120, and the gross receipts  
37 from the production of nonbusiness income, as defined in  
38 subdivision (d) of Section 25120.

39 (ii) In the case of any trade or business activity conducted by a  
40 partnership or an “S” corporation, the limitations set forth in

1 subparagraph (A) shall be applied to the partnership or “S”  
2 corporation ~~at the entity level, and to each partner or shareholder.~~

3 (iii) *For taxpayers that are required to be included in a*  
4 *combined report under Section 25101 or authorized to be included*  
5 *in a combined report under Section 25101.15, the dollar amount*  
6 *specified in subparagraph (A) shall apply to the aggregate gross*  
7 *receipts of all taxpayers that are required to be or authorized to*  
8 *be included in a combined report.*

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

11 (A) Not in receipt of wages subject to withholding under Section  
12 13020 of the Unemployment Insurance Code for that period.

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

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

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

21 (1) (A) The net increase in full-time employees shall be  
22 determined on an annual full-time equivalent basis by subtracting  
23 from the amount determined in subparagraph (C) the amount  
24 determined in subparagraph (B).

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

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

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

34 (d) For purposes of this section:

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

38 (2) In determining whether the taxpayer has first commenced  
39 doing business in this state during the taxable year, the provisions

1 of subdivision (g) of Section 24416.20, without application of  
2 paragraph (7) of that subdivision, shall apply.

3 (e) (1) To be eligible for the credit allowed by this section, a  
4 qualified taxpayer shall, upon hiring a qualified full-time employee,  
5 request a tentative credit reservation from the Franchise Tax Board  
6 within 30 days of complying with the ~~Employment-development~~  
7 *Development* Department's new hire reporting requirement as  
8 provided in Section 1088.5 of the ~~Unemployment Insurance code.~~  
9 *Code, in the form and manner prescribed by the Franchise Tax*  
10 *Board.*

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

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

29 (4) A tentative credit reservation provided to a taxpayer with  
30 respect to an employee of that taxpayer shall not constitute a  
31 determination by the Franchise Tax Board with respect to any of  
32 the requirements of this section regarding a taxpayer's eligibility  
33 for the credit authorized by this section.

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

35 (1) Approve a tentative credit reservation with respect to a  
36 qualified full-time employee hired during a ~~calendar year and~~  
37 ~~advise the qualified taxpayer of the applicable credit percentage~~  
38 ~~and the small business applicable credit percentage that may apply~~  
39 ~~with respect to that qualified full-time employee. year.~~

1 ~~(2) Determine and publish on its Internet Web site, on or before~~  
2 ~~September 1 of each calendar year, the applicable credit percentage~~  
3 ~~and small business applicable credit percentage for the following~~  
4 ~~calendar year.~~

5 ~~(3) Estimate the tentative credit wage base amount and the small~~  
6 ~~business tentative credit wage base amount for a calendar year~~  
7 ~~based on the starting wage or salary and full-time employment for~~  
8 ~~an entire calendar year.~~

9 ~~(4)~~

10 (2) Determine the aggregate tentative reservation amount and  
11 the aggregate small business tentative reservation amount for a  
12 calendar year.

13 (3) *A tentative credit reservation request from a qualified*  
14 *taxpayer with respect to a qualified full-time employee who is a*  
15 *resident of a targeted employment area, as defined in former*  
16 *Section 7072 of the Government Code, as in effect on December*  
17 *31, 2013, shall be expeditiously processed by the Franchise Tax*  
18 *Board. The residence of a qualified full-time employee in a targeted*  
19 *employment area shall have no other effect on the eligibility of an*  
20 *individual as a qualified full-time employee or the eligibility of a*  
21 *qualified taxpayer for the credit authorized by this section.*

22 ~~(5)~~

23 (4) Notwithstanding ~~section~~ *Section 19542*, provide as a  
24 searchable database on its Internet Web site, for each taxable year  
25 beginning on or after January 1, 2014, and before January 1, 2019,  
26 the employer names, amounts of tax credit claimed, and number  
27 of new jobs created for each taxable year pursuant to this section  
28 and ~~section~~ *Section 17053.73*.

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

33 (2) The redesignation of designated census tracts and lowest  
34 civilian unemployment census tracts by the Department of Finance  
35 as provided in Section 13073.5 of the Government Code shall be  
36 effective, for purposes of this credit, one year after the date that  
37 the Department of Finance redesignates the designated census  
38 tracts.

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

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

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

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

11 (D) If a qualified taxpayer acquires the major portion of a trade  
12 or business of another taxpayer, hereinafter in this paragraph  
13 referred to as the predecessor, or the major portion of a separate  
14 unit of a trade or business of a predecessor, then, for purposes of  
15 applying this section for any taxable year ending after that  
16 acquisition, the employment relationship between a qualified  
17 full-time employee and a qualified taxpayer shall not be treated  
18 as terminated if the employee continues to be employed in that  
19 trade or business.

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

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

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

29 (3) Rules similar to the rules provided in Sections 46(e) and  
30 46(h) of the Internal Revenue Code, as in effect on November 4,  
31 1990, shall apply to both of the following:

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

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

36 (i) (1) If the employment of any qualified full-time employee,  
37 with respect to whom qualified wages are taken into account under  
38 subdivision (a), is terminated by the qualified taxpayer at any time  
39 during the first 36 months after commencing employment with  
40 the qualified taxpayer, whether or not consecutive, the tax imposed



1 by this part for the taxable year in which that employment is  
2 terminated shall be increased by an amount equal to the credit  
3 allowed under subdivision (a) for that taxable year and all prior  
4 taxable years attributable to qualified wages paid or incurred with  
5 respect to that employee.

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

7 (A) A termination of employment of a qualified full-time  
8 employee who voluntarily leaves the employment of the qualified  
9 taxpayer.

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

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

20 (D) A termination of employment of a qualified full-time  
21 employee due to a substantial reduction in the trade or business  
22 operations of the qualified taxpayer, *including reductions due to*  
23 *seasonal employment.*

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

28 (F) A termination of employment of a qualified full-time  
29 employee, when that employment is considered seasonal  
30 employment and the qualified employee is rehired on a seasonal  
31 basis.

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

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

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

8 (k) The Franchise Tax Board may prescribe rules, guidelines,  
 9 or procedures necessary or appropriate to carry out the purposes  
 10 of this section, including any guidelines regarding the allocation  
 11 of the credit allowed under this section. Chapter 3.5 (commencing  
 12 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
 13 Government Code shall not apply to any rule, guideline, or  
 14 procedure prescribed by the Franchise Tax Board pursuant to this  
 15 section.

16 (l) (1) *Upon the effective date of this section, the Department*  
 17 *of Finance shall estimate the total dollar amount of credits that*  
 18 *will be claimed under this section with respect to each fiscal year*  
 19 *from the 2013–14 fiscal year to the 2018–19 fiscal year, inclusive.*

20 (2) *The Franchise Tax Board shall annually provide to the Joint*  
 21 *Legislative Budget Committee, by no later than March 1, a report*  
 22 *of the total dollar amount of the credits claimed under this section*  
 23 *with respect to the relevant fiscal year. The report shall compare*  
 24 *the total dollar amount of credits claimed under this section with*  
 25 *respect to that fiscal year with the department’s estimate with*  
 26 *respect to that same fiscal year. If the total dollar amount of credits*  
 27 *claimed for the fiscal year is less than the estimate for that fiscal*  
 28 *year, the report shall identify options for increasing annual claims*  
 29 *of the credit so as to meet estimated amounts.*

30 (⊕)

31 (m) (1) This section shall remain in effect only until December  
 32 1, 2024, and as of that date is repealed.

33 (2) Notwithstanding paragraph (1) of subdivision (a), this section  
 34 shall continue to be operative for taxable years beginning on or  
 35 after January 1, 2019, but only with respect to qualified full-time  
 36 employees who commenced employment with a qualified taxpayer  
 37 in a designated census tract or former enterprise zone in a taxable  
 38 year beginning before January 1, 2019.

39 (3) This section shall remain operative for any qualified taxpayer  
 40 with respect to any qualified full-time employee after the

1 designated census tract is no longer designated or a former  
2 enterprise zone ceases to be a former enterprise zone, as defined  
3 in this section, for the remaining period, if any, of the 60-month  
4 period after the original date of hiring of an otherwise qualified  
5 full-time employee and any wages paid or incurred with respect  
6 to those qualified full-time employees after the designated census  
7 tract is no longer designated or a former enterprise zone ceases to  
8 be a former enterprise zone, as defined in this section, shall be  
9 treated as qualified wages under this section, provided the  
10 employee satisfies any other requirements of paragraphs (10) and  
11 (12) of subdivision (b), as if the designated census tract was still  
12 designated and binding.

13 ~~SEC. 33.~~

14 *SEC. 34.* Section 23633 of the Revenue and Taxation Code is  
15 amended to read:

16 23633. (a) For each taxable year beginning on or after January  
17 1, 1998, and before January 1, 2014, there shall be allowed as a  
18 credit against the “tax” (as defined by Section 23036) for the  
19 taxable year an amount equal to the sales or use tax paid or incurred  
20 during the taxable year by the qualified taxpayer in connection  
21 with the qualified taxpayer’s purchase of qualified property before  
22 January 1, 2014.

23 (b) For purposes of this section:

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

26 (A) Is any of the following:

27 (i) Machinery and machinery parts used for fabricating,  
28 processing, assembling, and manufacturing.

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

31 (iii) Machinery and machinery parts used for either of the  
32 following:

33 (I) Air pollution control mechanisms.

34 (II) Water pollution control mechanisms.

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

38 (v) Motion picture manufacturing equipment central to  
39 production and post production, such as cameras, audio recorders,  
40 and digital image and sound processing equipment.

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

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

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

10 (2) (A) “Qualified taxpayer” means a corporation that meets  
11 both of the following:

12 (i) Is engaged in a trade or business within a targeted tax area  
13 designated pursuant to Chapter 12.93 (commencing with Section  
14 7097) of Division 7 of Title 1 of the Government Code.

15 (ii) Is engaged in those lines of business described in Codes  
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
18 of the Standard Industrial Classification (SIC) Manual published  
19 by the United States Office of Management and Budget, 1987  
20 edition.

21 (B) In the case of any pass-through entity, the determination of  
22 whether a taxpayer is a qualified taxpayer under this section shall  
23 be made at the entity level and any credit under this section or  
24 Section 17053.33 shall be allowed to the pass-through entity and  
25 passed through to the partners or shareholders in accordance with  
26 applicable provisions of this part or Part 10 (commencing with  
27 Section 17001). For purposes of this subparagraph, the term  
28 “pass-through entity” means any partnership or S corporation.

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

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

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

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

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

12 (g) (1) The amount of credit otherwise allowed under this  
13 section and Section 23634, including any credit carryover from  
14 prior years, that may reduce the “tax” for the taxable year shall  
15 not exceed the amount of tax that would be imposed on the  
16 qualified taxpayer’s business income attributable to the targeted  
17 tax area determined as if that attributable income represented all  
18 of the income of the qualified taxpayer subject to tax under this  
19 part.

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

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

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

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

6 (4) The portion of any credit remaining, if any, after application  
 7 of this subdivision, shall be carried over to succeeding taxable  
 8 years, if necessary, until the credit is exhausted, as if it were an  
 9 amount exceeding the “tax” for the taxable year, as provided in  
 10 subdivision (e). However, the portion of any credit remaining for  
 11 carryover to taxable years beginning on or after January 1, 2014,  
 12 if any, after application of this subdivision, shall be carried over  
 13 only to the succeeding five taxable years if necessary, until the  
 14 credit is exhausted, as if it were an amount exceeding the “tax”  
 15 for the taxable year, as provided in subdivision (e).

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

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

25 (i) This section is repealed on December 1, 2014.

26 ~~SEC. 34.~~

27 *SEC. 35.* Section 23634 of the Revenue and Taxation Code is  
 28 amended to read:

29 23634. (a) For each taxable year beginning on or after January  
 30 1, 1998, there shall be allowed a credit against the “tax” (as defined  
 31 by Section 23036) to a qualified taxpayer who employs a qualified  
 32 employee in a targeted tax area during the taxable year. The credit  
 33 shall be equal to the sum of each of the following:

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

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

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

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

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

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

- 1 (iii) Is hired by the qualified taxpayer after the date of original  
2 designation of the area in which services were performed as a  
3 targeted tax area.
- 4 (iv) Is any of the following:
  - 5 (I) Immediately preceding the qualified employee's  
6 commencement of employment with the qualified taxpayer, was  
7 a person eligible for services under the federal Job Training  
8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,  
9 who is receiving, or is eligible to receive, subsidized employment,  
10 training, or services funded by the federal Job Training Partnership  
11 Act, or its successor.
  - 12 (II) Immediately preceding the qualified employee's  
13 commencement of employment with the qualified taxpayer, was  
14 a person eligible to be a voluntary or mandatory registrant under  
15 the Greater Avenues for Independence Act of 1985 (GAIN)  
16 provided for pursuant to Article 3.2 (commencing with Section  
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
18 Institutions Code, or its successor.
  - 19 (III) Immediately preceding the qualified employee's  
20 commencement of employment with the qualified taxpayer, was  
21 an economically disadvantaged individual 14 years of age or older.
  - 22 (IV) Immediately preceding the qualified employee's  
23 commencement of employment with the qualified taxpayer, was  
24 a dislocated worker who meets any of the following:
    - 25 (aa) Has been terminated or laid off or who has received a notice  
26 of termination or layoff from employment, is eligible for or has  
27 exhausted entitlement to unemployment insurance benefits, and  
28 is unlikely to return to his or her previous industry or occupation.
    - 29 (bb) Has been terminated or has received a notice of termination  
30 of employment as a result of any permanent closure or any  
31 substantial layoff at a plant, facility, or enterprise, including an  
32 individual who has not received written notification but whose  
33 employer has made a public announcement of the closure or layoff.
    - 34 (cc) Is long-term unemployed and has limited opportunities for  
35 employment or reemployment in the same or a similar occupation  
36 in the area in which the individual resides, including an individual  
37 55 years of age or older who may have substantial barriers to  
38 employment by reason of age.
    - 39 (dd) Was self-employed (including farmers and ranchers) and  
40 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 under  
5 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 and  
12 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 qualified taxpayer, was  
18 a disabled individual who is eligible for or enrolled in, or has  
19 completed a state rehabilitation plan or is a service-connected  
20 disabled veteran, veteran of the Vietnam era, or veteran who is  
21 recently separated from military service.

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

27 (VII) Immediately preceding the qualified employee's  
28 commencement of employment with the qualified taxpayer, was  
29 a person 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) CalFresh benefits.

33 (dd) State and local general assistance.

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

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

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

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

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

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

16 (ii) Is engaged in those lines of business described in Codes  
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
19 of the Standard Industrial Classification (SIC) Manual published  
20 by the United States Office of Management and Budget, 1987  
21 edition.

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

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

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

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

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

1 the targeted tax area, a certification that provides that a qualified  
2 employee meets the eligibility requirements specified in clause  
3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
4 Employment Development Department may provide preliminary  
5 screening and referral to a certifying agency. The Department of  
6 Housing and Community Development shall develop regulations  
7 for the issuance of certificates pursuant to subdivision (g) of  
8 Section 7097 of the Government Code, and shall develop forms  
9 for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the taxable year, and the denominator of which is the average value  
2 of all the taxpayer's real and tangible personal property owned or  
3 rented and used in this state during the taxable year.

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

9 (4) The portion of any credit remaining, if any, after application  
10 of this subdivision, shall be carried over to succeeding taxable  
11 years, if necessary, until the credit is exhausted, as if it were an  
12 amount exceeding the "tax" for the taxable year, as provided in  
13 subdivision (i). However, the portion of any credit remaining for  
14 carryover to taxable years beginning on or after January 1, 2014,  
15 if any, after application of this subdivision, shall be carried over  
16 only to the succeeding five taxable years if necessary, until the  
17 credit is exhausted, as if it were an amount exceeding the "tax"  
18 for the taxable year, as provided in subdivision (i).

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 designation has expired or been revoked, the targeted tax area shall  
22 be deemed to remain in existence for purposes of computing the  
23 limitation specified in this subdivision.

24 (k) (1) Except as provided in paragraph (2), this section shall  
25 cease to be operative for taxable years beginning on or after January  
26 1, 2014, and shall be repealed on December 1, 2019.

27 (2) The section shall continue to apply with respect to qualified  
28 employees who are employed by the qualified taxpayer within the  
29 targeted tax area within the 60-month period immediately preceding  
30 January 1, 2014, and qualified wages paid or incurred with respect  
31 to those qualified employees shall continue to qualify for the credit  
32 under this section for taxable years beginning on or after January  
33 1, 2014, in accordance with this section, as amended by the act  
34 adding this subdivision.

35 ~~SEC. 35.~~

36 *SEC. 36.* Section 23645 of the Revenue and Taxation Code is  
37 amended to read:

38 23645. (a) For each taxable year beginning on or after January  
39 1, 1995, and before January 1, 2014, there shall be allowed as a  
40 credit against the "tax" (as defined by Section 23036) for the

1 taxable year an amount equal to the sales or use tax paid or incurred  
2 by the taxpayer in connection with the purchase of qualified  
3 property before January 1, 2014, to the extent that the qualified  
4 property does not exceed a value of twenty million dollars  
5 (\$20,000,000).

6 (b) For purposes of this section:

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

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

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

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

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

32 (ii) The total number of months worked in the LAMBRA for  
33 the taxpayer by employees that are salaried employees divided by  
34 12.

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



1 taxpayer was doing business in the LAMBRA and the denominator  
2 of which is 12.

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

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

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

9 (C) Any of the following:

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

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

15 (iii) Aircraft components, including, but not limited to, engines,  
16 fuel control units, hydraulic pumps, avionics, starts, wheels, and  
17 tires.

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

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

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

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

35 (f) (1) The amount of the credit otherwise allowed under this  
36 section and Section 23646, including any credit carryovers from  
37 prior years, that may reduce the “tax” for the taxable year shall  
38 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 attributable income represented all the income of the  
2 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 shall first be determined in  
7 accordance with Chapter 17 (commencing with Section 25101).  
8 That business income shall be further apportioned to the LAMBRA  
9 in accordance with Article 2 (commencing with Section 25120)  
10 of Chapter 17, modified for purposes of this section in accordance  
11 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 the  
27 taxable year.

28 (4) The portion of any credit remaining, if any, after application  
29 of this subdivision, shall be carried over to succeeding taxable  
30 years, if necessary, until the credit is exhausted, as if it were an  
31 amount exceeding the "tax" for the taxable year, as provided in  
32 subdivision (d). However, the portion of any credit remaining for  
33 carryover to taxable years beginning on or after January 1, 2014,  
34 if any, after application of this subdivision, shall be carried over  
35 only to the succeeding five taxable years, if necessary, until the  
36 credit is exhausted, as if it were an amount exceeding the "tax"  
37 for the taxable year, as provided in subdivision (d).

38 (g) (1) If the qualified property is disposed of or no longer used  
39 by the taxpayer in the LAMBRA, at any time before the close of  
40 the second taxable year after the property is placed in service, the

1 amount of the credit previously claimed, with respect to that  
2 property, shall be added to the taxpayer's tax liability in the taxable  
3 year of that disposition or nonuse.

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

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

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

15 (j) This section is repealed on December 1, 2014.

16 ~~SEC. 36.~~

17 *SEC. 37.* Section 23646 of the Revenue and Taxation Code is  
18 amended to read:

19 23646. (a) For each taxable year beginning on or after January  
20 1, 1995, there shall be allowed as a credit against the "tax" (as  
21 defined in Section 23036) to a qualified taxpayer for hiring a  
22 qualified disadvantaged individual or a qualified displaced  
23 employee during the taxable year for employment in the LAMBRA.  
24 The credit 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 employer  
38 during the taxable year to qualified disadvantaged individuals or  
39 qualified displaced employees that does not exceed 150 percent  
40 of the minimum wage.

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

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

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

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

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

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

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

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

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

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

- 1 (i) An individual who has been determined eligible for services  
2 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
3 1501 et seq.), or its successor.
- 4 (ii) Any voluntary or mandatory registrant under the Greater  
5 Avenues for Independence Act of 1985 provided for pursuant to  
6 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part  
7 3 of Division 9 of the Welfare and Institutions Code.
- 8 (iii) An economically disadvantaged individual 16 years of age  
9 or older.
- 10 (iv) A dislocated worker who meets any of the following  
11 conditions:
- 12 (I) Has been terminated or laid off or who has received a notice  
13 of termination or layoff from employment, is eligible for or has  
14 exhausted entitlement to unemployment insurance benefits, and  
15 is unlikely to return to his or her previous industry or occupation.
- 16 (II) Has been terminated or has received a notice of termination  
17 of employment as a result of any permanent closure or any  
18 substantial layoff at a plant, facility, or enterprise, including an  
19 individual who has not received written notification but whose  
20 employer has made a public announcement of the closure or layoff.
- 21 (III) Is long-term unemployed and has limited opportunities for  
22 employment or reemployment in the same or a similar occupation  
23 in the area in which the individual resides, including an individual  
24 55 years of age or older who may have substantial barriers to  
25 employment by reason of age.
- 26 (IV) Was self-employed (including farmers and ranchers) and  
27 is unemployed as a result of general economic conditions in the  
28 community in which he or she resides or because of natural  
29 disasters.
- 30 (V) Was a civilian employee of the Department of Defense  
31 employed at a military installation being closed or realigned under  
32 the Defense Base Closure and Realignment Act of 1990.
- 33 (VI) Was an active member of the Armed Forces or National  
34 Guard as of September 30, 1990, and was either involuntarily  
35 separated or separated pursuant to a special benefits program.
- 36 (VII) Experiences chronic seasonal unemployment and  
37 underemployment in the agriculture industry, aggravated by  
38 continual advancements in technology and mechanization.

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

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

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

11 (vii) A recipient of:

12 (I) Federal Supplemental Security Income benefits.

13 (II) Aid to Families with Dependent Children.

14 (III) CalFresh benefits.

15 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

15 (B) (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 a LAMBRA.

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

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

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

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

31 (1) Obtain from the Employment Development Department, as  
32 permitted by federal law, the administrative entity of the local  
33 county or city for the federal Job Training Partnership Act, or its  
34 successor, the local county GAIN office or social services agency,  
35 or the local government administering the LAMBRA, a  
36 certification that provides that a qualified disadvantaged individual  
37 or qualified displaced employee meets the eligibility requirements  
38 specified in subparagraph (C) of paragraph (4) of subdivision (b)  
39 or subparagraph (A) of paragraph (6) of subdivision (b). The  
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Department of  
2 Housing and Community Development shall develop regulations  
3 governing the issuance of certificates pursuant to Section 7114.2  
4 of the Government Code and shall develop forms for this purpose.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (C) For purposes of paragraph (1), the employment relationship  
26 between the taxpayer and an employee shall not be treated as  
27 terminated by either of the following:

28 (i) A transaction to which Section 381(a) of the Internal Revenue  
29 Code applies, if the employee continues to be employed by the  
30 acquiring corporation.

31 (ii) A mere change in the form of conducting the trade or  
32 business of the taxpayer, if the employee continues to be employed  
33 in that trade or business and the taxpayer retains a substantial  
34 interest in that trade or business.

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

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

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

3 (f) In the case of an organization to which Section 593 of the  
4 Internal Revenue Code applies, and a regulated investment  
5 company or a real estate investment trust subject to taxation under  
6 this part, rules similar to the rules provided in Section 46(e) and  
7 Section 46(h) of the Internal Revenue Code shall apply.

8 (g) The credit shall be reduced by the credit allowed under  
9 Section 23621. The credit shall also be reduced by the federal  
10 credit allowed under Section 51 of the Internal Revenue Code.

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

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

21 (i) (1) The amount of credit otherwise allowed under this section  
22 and Section 23645, including any prior year carryovers, that may  
23 reduce the "tax" for the taxable year shall not exceed the amount  
24 of tax that would be imposed on the taxpayer's business income  
25 attributed to a LAMBRA determined as if that attributed income  
26 represented all of the income of the taxpayer subject to tax under  
27 this part.

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

37 (3) Income shall be apportioned to a LAMBRA by multiplying  
38 the total California business income of the taxpayer by a fraction,  
39 the numerator of which is the property factor plus the payroll factor,

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

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

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

14 (4) The portion of any credit remaining, if any, after application  
15 of this subdivision, shall be carried over to succeeding taxable  
16 years, if necessary, until the credit is exhausted, as if it were an  
17 amount exceeding the "tax" for the taxable year, as provided in  
18 subdivision (h). However, the portion of any credit remaining for  
19 carryover to taxable years beginning on or after January 1, 2014,  
20 if any, after application of this subdivision, shall be carried over  
21 only to the succeeding five taxable years, if necessary, until the  
22 credit is exhausted, as if it were an amount exceeding the "tax"  
23 for the taxable year, as provided in subdivision (h).

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

28 (k) (1) Except as provided in paragraph (2), this section shall  
29 cease to be operative for taxable years beginning on or after January  
30 1, 2014, and shall be repealed on December 1, 2019.

31 (2) The section shall continue to apply with respect to qualified  
32 employees who are employed by the qualified taxpayer within the  
33 LAMBRA within the 60-month period immediately preceding  
34 January 1, 2014, and qualified wages paid or incurred with respect  
35 to those qualified employees shall continue to qualify for the credit  
36 under this section for taxable years beginning on or after January  
37 1, 2014, in accordance with this section, as amended by the act  
38 adding this subdivision.

1 ~~SEC. 37.~~

2 *SEC. 38.* Section 23689 is added to the Revenue and Taxation  
3 Code, to read:

4 23689. (a) (1) For each taxable year beginning on and after  
5 January 1, 2014, and before January 1, 2025, there shall be allowed  
6 as a credit against the “tax,” as defined in Section 23036, an amount  
7 as determined by the committee pursuant to paragraph (2) and  
8 approved pursuant to Section 18410.2.

9 (2) The amount of credit allocated to a taxpayer for a taxable  
10 year pursuant to this section shall be as set forth in a written  
11 agreement between GO-Biz and the taxpayer and shall be based  
12 ~~on, but not limited to,~~ on the following factors:

13 (A) The number of jobs the taxpayer will create or retain in this  
14 state.

15 (B) The compensation paid or proposed to be paid by the  
16 taxpayer to its employees, including wages and fringe benefits.

17 (C) The amount of investment in this state by the taxpayer.

18 (D) The extent of unemployment in the area in which the  
19 taxpayer’s project or business is proposed or located.

20 (E) The incentives available to the taxpayer in the state,  
21 including incentives from the state, local government and other  
22 entities.

23 (F) The incentives available to the taxpayer in other states.

24 (G) The duration of the proposed project and the duration the  
25 taxpayer commits to remain in this state.

26 (H) The overall economic impact in this state of the taxpayer’s  
27 project or business.

28 (I) The strategic importance of the taxpayer’s project or business  
29 to the state, region, or locality.

30 (J) The opportunity for future growth and expansion in this state  
31 by the taxpayer’s business.

32 (K) The extent to which the anticipated benefit to the state  
33 exceeds the projected benefit to the taxpayer from the tax credit.

34 (3) The written agreement entered into pursuant to paragraph  
35 (2) shall include:

36 (A) Terms and conditions that include a minimum compensation  
37 level and a minimum job retention period.

38 (B) Provisions indicating whether the credit is to be allocated  
39 in full upon approval or in increments based on mutually agreed  
40 upon milestones when satisfactorily met by the taxpayer.

- 1 (C) Provisions that allow the committee to recapture the credit,
- 2 in whole or in part, if the taxpayer fails to fulfill the terms and
- 3 conditions of the written agreement.
- 4 (b) For purposes of this section:
- 5 (1) “Committee” means the California Competes Tax Credit
- 6 Committee established pursuant to Section 18410.2.
- 7 (2) “GO-Biz” means the Governor’s Office of Business and
- 8 Economic Development.
- 9 (c) For purposes of this section, GO-Biz shall do the following:
- 10 (1) Give priority to a taxpayer whose project or business is
- 11 located or proposed to be located in an area of high unemployment
- 12 or poverty.
- 13 (2) Negotiate with a taxpayer the terms and conditions of
- 14 proposed written agreements that provide the credit allowed
- 15 pursuant to this section to a taxpayer.
- 16 (3) Provide the negotiated written agreement to the committee
- 17 for its approval pursuant to Section 18410.2.
- 18 (4) Inform the Franchise Tax Board of the terms and conditions
- 19 of the written agreement upon approval of the written agreement
- 20 by the committee.
- 21 (5) Inform the Franchise Tax Board of any recapture, in whole
- 22 or in part, of a previously allocated credit upon approval of the
- 23 recapture by the committee.
- 24 (6) Post on its Internet Web site all of the following:
- 25 (A) The name of each taxpayer allocated a credit pursuant to
- 26 this section.
- 27 (B) The estimated amount of the investment by each taxpayer.
- 28 (C) The estimated number of jobs created or retained.
- 29 (D) The amount of the credit allocated to the taxpayer.
- 30 (E) The amount of the credit recaptured from the taxpayer, if
- 31 applicable.
- 32 (d) For purposes of this section, the Franchise Tax Board shall
- 33 do all of the following:
- 34 (1) (A) Except as provided in subparagraph (B), review the
- 35 books and records of all taxpayers allocated a credit pursuant to
- 36 this section to ensure compliance with the terms and conditions
- 37 of the written agreement between the taxpayer and GO-Biz.
- 38 (B) In the case of a taxpayer that is a “small business,” as
- 39 defined in Section 23626, review the books and records of the
- 40 taxpayer allocated a credit pursuant to this section to ensure

1 compliance with the terms and conditions of the written agreement  
2 between the taxpayers and GO-Biz when, in the sole discretion of  
3 the Franchise Tax Board, a review of those books and records is  
4 appropriate or necessary in the best interests of the state.

5 (2) Notwithstanding Section 19542:

6 (A) Notify GO-Biz of a possible breach of the written agreement  
7 by a taxpayer and provide detailed information regarding the basis  
8 for that determination.

9 (B) Provide information to GO-Biz with respect to whether a  
10 taxpayer is a “small business,” as defined in Section 23626.

11 (e) In the case where the credit allowed under this section  
12 exceeds the “tax,” as defined in Section 23036, for a taxable year,  
13 the excess credit may be carried over to reduce the “tax” in the  
14 following taxable year, and succeeding five taxable years, if  
15 necessary, until the credit has been exhausted.

16 (f) Any recapture, in whole or in part, of a credit approved by  
17 the committee pursuant to Section 18410.2 shall be treated as a  
18 mathematical error appearing on the return. Any amount of tax  
19 resulting from that recapture shall be assessed by the Franchise  
20 Tax Board in the same manner as provided by Section 19051. The  
21 amount of tax resulting from the recapture shall be added to the  
22 tax otherwise due by the taxpayer for the taxable year in which  
23 the committee’s recapture determination occurred.

24 (g) (1) The aggregate amount of credit that may be allocated  
25 in any fiscal year pursuant to this section and Section 17059.2 shall  
26 be an amount equal to the sum of subparagraphs (A), (B), *and*  
27 (C), *and less the amount specified in subparagraph (D)*:

28 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal  
29 year, one hundred fifty million dollars (\$150,000,000) for the  
30 2014–15 fiscal year, and two hundred million dollars  
31 (\$200,000,000) for each fiscal year from 2015–16 to 2018–19,  
32 inclusive.

33 (B) The unallocated credit amount, if any, from the preceding  
34 fiscal year.

35 (C) The amount of any previously allocated credits that have  
36 been recaptured.

37 ~~(D) The amount by which the exemptions claimed in the prior~~  
38 ~~year pursuant to Section 6377.1 plus the amounts claimed in the~~  
39 ~~prior year pursuant to this section and Sections 17053.73, 17059.2,~~

1 and ~~23626, exceed seven hundred fifty million dollars~~  
2 ~~(\$750,000,000).~~

3 *(D) The amount estimated by the Director of Finance, in*  
4 *consultation with the Franchise Tax Board and the State Board*  
5 *of Equalization, to be necessary to limit the aggregation of the*  
6 *estimated amount of exemptions claimed pursuant to Section*  
7 *6377.1 and of the amounts estimated to be claimed pursuant to*  
8 *this section and Sections 17053.73, 23626, and 23689 to no more*  
9 *than seven hundred fifty million dollars (\$750,000,000) for either*  
10 *the current fiscal year or for any of the three succeeding fiscal*  
11 *years.*

12 *(i) The Director of Finance shall notify the Chairperson of the*  
13 *Joint Legislative Budget Committee of the estimated annual*  
14 *allocation authorized by this paragraph. Any allocation pursuant*  
15 *to these provisions shall be made no sooner than 30 days after*  
16 *written notification has been provided to the Chairperson of the*  
17 *Joint Legislative Budget Committee and the chairpersons of the*  
18 *committees of each house of the Legislature that consider*  
19 *appropriation, or not sooner than whatever lesser time the*  
20 *Chairperson of the Joint Legislative Budget Committee, or his or*  
21 *her designee, may determine.*

22 *(ii) In no event shall the amount estimated in this subparagraph*  
23 *be less than zero dollars (\$0).*

24 (2) Each fiscal year, 25 percent of the aggregate amount of the  
25 credit that may be allocated pursuant to this section and Section  
26 17059.2 shall be reserved for “small business,” as defined in  
27 Section 17053.73 or 23626.

28 (3) Each fiscal year, no more than 20 percent of the aggregate  
29 amount of the credit that shall be allocated pursuant to this section  
30 may be allocated to any one taxpayer.

31 (h) GO-Biz may prescribe rules and regulations as necessary to  
32 carry out the purposes of this section. Any rule or regulation  
33 prescribed pursuant to this section may be by adoption of an  
34 emergency regulation in accordance with Chapter 3.5 (commencing  
35 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
36 Government Code.

37 ~~(i) (1) A written agreement between GO-Biz and a taxpayer~~  
38 ~~with respect to the credit authorized by this section shall not~~  
39 ~~restrict, broaden, or otherwise alter the ability of the taxpayer to~~



1 assign that credit or any portion thereof in accordance with Section  
2 23663.

3 ~~(2)~~

4 (i) A written agreement between GO-Biz and a taxpayer with  
5 respect to the credit authorized by this section must comply with  
6 existing law on the date the agreement is executed.

7 (j) (1) *Upon the effective date of this section, the Department*  
8 *of Finance shall estimate the total dollar amount of credits that*  
9 *will be claimed under this section with respect to each fiscal year*  
10 *from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.*

11 (2) *The Franchise Tax Board shall annually provide to the Joint*  
12 *Legislative Budget Committee, by no later than March 1, a report*  
13 *of the total dollar amount of the credits claimed under this section*  
14 *with respect to the relevant fiscal year. The report shall compare*  
15 *the total dollar amount of credits claimed under this section with*  
16 *respect to that fiscal year with the department’s estimate with*  
17 *respect to that same fiscal year. If the total dollar amount of credits*  
18 *claimed for the fiscal year is less than the estimate for that fiscal*  
19 *year, the report shall identify options for increasing annual claims*  
20 *of the credit so as to meet estimated amounts.*

21 ~~(j)~~

22 (k) This section is repealed on December 1, 2025.

23 ~~SEC. 38.~~

24 SEC. 39. Section 24356.6 of the Revenue and Taxation Code  
25 is amended to read:

26 24356.6. (a) For each taxable year beginning on or after  
27 January 1, 1998, a qualified taxpayer may elect to treat 40 percent  
28 of the cost of any Section 24356.6 property as an expense that is  
29 not chargeable to a capital account. Any cost so treated shall be  
30 allowed as a deduction for the taxable year in which the qualified  
31 taxpayer places the Section 24356.6 property in service.

32 (b) (1) An election under this section for any taxable year shall  
33 do both of the following:

34 (A) Specify the items of Section 24356.6 property to which the  
35 election applies and the percentage of the cost of each of those  
36 items that are to be taken into account under subdivision (a).

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

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

4 (c) (1) For purposes of this section, “Section 24356.6 property”  
5 means any recovery property that is:

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

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

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

15 (2) For purposes of paragraph (1), “purchase” means any  
16 acquisition of property, but only if all of the following apply:

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

24 (B) The property is not acquired by one member of an affiliated  
25 group from another member of the same affiliated group.

26 (C) The basis of the property in the hands of the person acquiring  
27 it is not determined in whole or in part by reference to the adjusted  
28 basis of that property in the hands of the person from who it is  
29 acquired.

30 (3) For purposes of this section, the cost of property does not  
31 include that portion of the basis of that property that is determined  
32 by reference to the basis of other property held at any time by the  
33 person acquiring that property.

34 (4) This section shall not apply to any property for which the  
35 qualified taxpayer may not make an election under Section 179 of  
36 the Internal Revenue Code because of the application of the  
37 provisions of Section 179(d) of the Internal Revenue Code.

38 (5) For purposes of subdivision (b), both of the following apply:

39 (A) All members of an affiliated group shall be treated as one  
40 qualified taxpayer.

1 (B) The qualified taxpayer shall apportion the dollar limitation  
2 contained in subdivision (f) among the members of the affiliated  
3 group in whatever manner the board shall prescribe.

4 (6) For purposes of paragraphs (2) and (5), “affiliated group”  
5 means “affiliated group” as defined in Section 1504 of the Internal  
6 Revenue Code, except that, for these purposes, the phrase “more  
7 than 50 percent” shall be substituted for the phrase “at least 80  
8 percent” each place it appears in Section 1504(a) of the Internal  
9 Revenue Code.

10 (d) (1) For purposes of this section, “qualified taxpayer” means  
11 a corporation that meets both of the following:

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

16 (B) Is engaged in those lines of business described in Codes  
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
18 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,  
19 of the Standard Industrial Classification (SIC) Manual published  
20 by the United States Office of Management and Budget, 1987  
21 edition.

22 (2) In the case of any pass-through entity, the determination of  
23 whether a taxpayer is a qualified taxpayer under this section shall  
24 be made at the entity level and any deduction under this section  
25 or Section 17267.6 shall be allowed to the pass-through entity and  
26 passed through to the partners or shareholders in accordance with  
27 applicable provisions of this part or Part 10 (commencing with  
28 Section 17001). For purposes of this subparagraph, the term  
29 “pass-through entity” means any partnership or S corporation.

30 (e) Any qualified taxpayer who elects to be subject to this  
31 section shall not be entitled to claim additional depreciation  
32 pursuant to Section 24356 with respect to any property that  
33 constitutes Section 24356.6 property. However, the qualified  
34 taxpayer may claim depreciation by any method permitted by  
35 Section 24349 commencing with the taxable year following the  
36 taxable year in which Section 24356.6 property is placed in service.

37 (f) The aggregate cost of all Section 24356.6 property that may  
38 be taken into account under subdivision (a) for any taxable year  
39 shall not exceed the following applicable amount for the taxable

1 year of the designation of the relevant targeted tax area and taxable  
2 years thereafter:

3		
4		The applicable
5		amount is:
6	Taxable year of designation .....	\$100,000
7	1st taxable year thereafter .....	100,000
8	2nd taxable year thereafter .....	75,000
9	3rd taxable year thereafter .....	75,000
10	Each taxable year thereafter .....	50,000

11  
12 (g) Any amounts deducted under subdivision (a) with respect  
13 to Section 24356.6 property that ceases to be used in the qualified  
14 taxpayer’s trade or business within a targeted tax area at any time  
15 before the close of the second taxable year after the property is  
16 placed in service shall be included in income in the taxable year  
17 in which the property ceases to be so used.

18 (h) This section shall cease to be operative for taxable years  
19 beginning on or after January 1, 2014, and shall be repealed on  
20 December 1, 2014.

21 ~~SEC. 39.~~

22 *SEC. 40.* Section 24356.7 of the Revenue and Taxation Code  
23 is amended to read:

24 24356.7. (a) A taxpayer may elect to treat 40 percent of the  
25 cost of any Section 24356.7 property as an expense that is not  
26 chargeable to a capital account. Any cost so treated shall be allowed  
27 as a deduction for the taxable year in which the taxpayer places  
28 the Section 24356.7 property in service.

29 (b) (1) An election under this section for any taxable year shall  
30 do both of the following:

31 (A) Specify the items of Section 24356.7 property to which the  
32 election applies and the percentage of the cost of each of those  
33 items that are to be taken into account under subdivision (a).

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

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

39 (c) (1) For purposes of this section, “Section 24356.7 property”  
40 means any recovery property that is:

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

3 (B) Purchased and placed in service by the taxpayer for  
4 exclusive use in a trade or business conducted 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 (C) Purchased and placed in service before the date the  
8 enterprise zone designation expires, is no longer binding, or  
9 becomes inoperative.

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

12 (A) The property is not acquired from a person whose  
13 relationship to the person acquiring it would result in the  
14 disallowance of losses under Sections 24427 through 24429.  
15 However, in applying Sections 24428 and 24429 for purposes of  
16 this section, subdivision (d) of Section 24429 shall be treated as  
17 providing that the family of an individual shall include only his or  
18 her spouse, ancestors, and lineal descendants.

19 (B) The property is not acquired by one member of an affiliated  
20 group from another member of the same affiliated group.

21 (C) The basis of the property in the hands of the person acquiring  
22 it is not determined in whole or in part by reference to the adjusted  
23 basis of that property in the hands of the person from whom it is  
24 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 determined  
27 by reference to the basis of other property held at any time by the  
28 person acquiring that property.

29 (4) This section shall not apply to any property for which the  
30 taxpayer could not make a federal election under Section 179 of  
31 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) of this section, both of the  
34 following apply:

35 (A) All members of an affiliated group shall be treated as one  
36 taxpayer.

37 (B) The taxpayer shall apportion the dollar limitation contained  
38 in subdivision (f) among the members of the affiliated group in  
39 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 Internal  
 3 Revenue Code, except that, for these purposes, the phrase “more  
 4 than 50 percent” shall be substituted for the phrase “at least 80  
 5 percent” each place it appears in Section 1504(a) of the Internal  
 6 Revenue Code.

7 (d) For purposes of this section, “taxpayer” means a bank or  
 8 corporation that conducts a trade or business within an enterprise  
 9 zone designated pursuant to Chapter 12.8 (commencing with  
 10 Section 7070) of Division 7 of Title 1 of the Government Code.

11 (e) Any taxpayer who elects to be subject to this section shall  
 12 not be entitled to claim additional depreciation pursuant to Section  
 13 24356 with respect to any property that constitutes Section 24356.7  
 14 property. However, the taxpayer may claim depreciation by any  
 15 method permitted by Section 24349 commencing with the taxable  
 16 year following the taxable year in which Section 24356.7 property  
 17 is placed in service.

18 (f) The aggregate cost of all Section 24356.7 property that may  
 19 be taken into account under subdivision (a) for any taxable years  
 20 shall not exceed the following applicable amount for the taxable  
 21 year of the designation of the relevant enterprise zone and taxable  
 22 years thereafter:

23		
24		The applicable
25		amount is:
26	Taxable year of designation .....	\$100,000
27	1st taxable year thereafter .....	100,000
28	2nd taxable year thereafter .....	75,000
29	3rd taxable year thereafter .....	75,000
30	Each taxable year thereafter .....	50,000

31  
 32 (g) Any amounts deducted under subdivision (a) with respect  
 33 to Section 24356.7 property that ceases to be used in the taxpayer’s  
 34 trade or business within an enterprise zone at any time before the  
 35 close of the second taxable year after the property is placed in  
 36 service shall be included in income in the taxable year in which  
 37 the property ceases to be so used.

38 (h) This section shall cease to be operative for taxable years  
 39 beginning on or after January 1, 2014, and shall be repealed on  
 40 December 1, 2014.

1     ~~SEC. 40.~~

2     *SEC. 41.* Section 24356.8 of the Revenue and Taxation Code  
3 is amended to read:

4     24356.8. (a) For each taxable year beginning on or after  
5 January 1, 1995, a taxpayer may elect to treat 40 percent of the  
6 cost of any Section 24356.8 property as an expense that is not  
7 chargeable to the capital account. Any cost so treated shall be  
8 allowed as a deduction for the taxable year in which the taxpayer  
9 places the Section 24356.8 property in service.

10    (b) (1) An election under this section for any taxable year shall  
11 meet both of the following requirements:

12    (A) Specify the items of Section 24356.8 property to which the  
13 election applies and the portion of the cost of each of those items  
14 that is to be taken into account under subdivision (a).

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

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

20    (c) (1) For purposes of this section, "Section 24356.8 property"  
21 means any recovery property that is:

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

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

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

28    (2) For purposes of paragraph (1), "purchase" means any  
29 acquisition of property, but only if all of the following apply:

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

38    (B) The property is not acquired by one component member of  
39 an affiliated group from another component member of the same  
40 affiliated group.

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

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

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

13 (5) For purposes of subdivision (b), both of the following apply:

14 (A) All members of an affiliated group shall be treated as one  
15 taxpayer.

16 (B) The taxpayer shall apportion the dollar limitation contained  
17 in subdivision (f) among the component members of the affiliated  
18 group in whatever manner the board shall by regulations prescribe.

19 (6) For purposes of paragraphs (2) and (5), “affiliated group”  
20 has the meaning assigned to it by Section 1504 of the Internal  
21 Revenue Code, except that, for these purposes, the phrase “more  
22 than 50 percent” shall be substituted for the phrase “at least 80  
23 percent” each place it appears in Section 1504(a) of the Internal  
24 Revenue Code.

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

27 (8) In the case of an S corporation, the dollar limitation  
28 contained in subdivision (f) shall be applied at the entity level and  
29 at the shareholder level.

30 (d) For purposes of this section:

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

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

38 (A) The net increase in the number of jobs shall be determined  
39 by subtracting the total number of full-time employees (defined  
40 as 2,000 paid hours per employee per year) the taxpayer employed



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

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

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

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

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

26 (e) Any taxpayer who elects to be subject to this section shall  
27 not be entitled to claim additional depreciation pursuant to Section  
28 24356 with respect to any property that constitutes Section 24356.8  
29 property.

30 (f) The aggregate cost of all Section 24356.8 property that may  
31 be taken into account under subdivision (a) for any taxable year  
32 shall not exceed the following applicable amounts for the taxable  
33 year of the designation of the relevant LAMBRA and taxable years  
34 thereafter:

1		The applicable
2		amount is:
3		
4	Taxable year of designation .....	\$100,000
5	1st taxable year thereafter .....	100,000
6	2nd taxable year thereafter .....	75,000
7	3rd taxable year thereafter .....	75,000
8	Each taxable year thereafter .....	50,000
9		

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

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

17 (2) At the close of the second taxable year, if the taxpayer has  
18 not increased the number of its employees as determined by  
19 paragraph (2) of subdivision (d), then the amount of the deduction  
20 previously claimed shall be added to the taxpayer’s net income  
21 for the taxpayer’s second taxable year.

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

26 (j) This section shall cease to be operative for taxable years  
27 beginning on or after January 1, 2014, and shall be repealed on  
28 December 1, 2014.

29 ~~SEC. 41.~~

30 *SEC. 42.* Section 24384.5 of the Revenue and Taxation Code  
31 is amended to read:

32 24384.5. (a) There shall be allowed as a deduction the amount  
33 of net interest received by the taxpayer before January 1, 2014, in  
34 payment of indebtedness of a person or entity engaged in a trade  
35 or business located in an enterprise zone.

36 (b) A deduction shall not be allowed under this section unless  
37 at the time the indebtedness is incurred each of the following  
38 requirements are met:

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

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

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

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

8 (d) This section shall cease to be operative for taxable years  
9 beginning on or after January 1, 2014, and shall be repealed on  
10 December 1, 2014.

11 ~~SEC. 42.~~

12 *SEC. 43.* Section 24416.2 of the Revenue and Taxation Code  
13 is amended to read:

14 24416.2. (a) The term “qualified taxpayer” as used in Section  
15 24416.1 includes a corporation engaged in the conduct of a trade  
16 or business within an enterprise zone designated pursuant to  
17 Chapter 12.8 (commencing with Section 7070) of Division 7 of  
18 Title 1 of the Government Code. For purposes of this subdivision,  
19 all 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 a net operating loss for any  
22 taxable year beginning on or after the date that the area in which  
23 the taxpayer conducts a trade or business is designated as an  
24 enterprise zone shall be a net operating loss carryover to each of  
25 the 15 taxable years following the taxable year of loss.

26 (2) For purposes of this subdivision:

27 (A) “Net operating loss” means the loss determined under  
28 Section 172 of the Internal Revenue Code, as modified by Section  
29 24416.1, attributable to the taxpayer’s business activities within  
30 the enterprise zone (as defined in Chapter 12.8 (commencing with  
31 Section 7070) of Division 7 of Title 1 of the Government Code)  
32 prior to the enterprise zone expiration date. That attributable loss  
33 shall be determined in accordance with Chapter 17 (commencing  
34 with Section 25101), modified for purposes of this subdivision as  
35 follows:

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

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

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

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

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

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

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

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

35 (D) "Enterprise zone expiration date" means the date the  
36 enterprise zone designation expires, is no longer binding, or  
37 becomes inoperative.

38 (3) The changes made to this subdivision by the act adding this  
39 paragraph shall apply to taxable years beginning on or after January  
40 1, 1998.

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

9 (c) If a taxpayer is eligible to qualify under this section and  
10 either Section 24416.4, 24416.5, 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 24416.4, 24416.5, 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 cease to be operative for taxable years  
20 beginning on or after January 1, 2014, and shall be repealed on  
21 December 1, 2014.

22 ~~SEC. 43.~~

23 *SEC. 44.* Section 24416.5 of the Revenue and Taxation Code  
24 is amended to read:

25 24416.5. (a) For each taxable year beginning on or after  
26 January 1, 1995, the term “qualified taxpayer” as used in Section  
27 24416.1 includes a taxpayer engaged in the conduct of a trade or  
28 business within a LAMBRA. For purposes of this subdivision, all  
29 of the following shall apply:

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

38 (2) In the case of a financial institution to which Section 585,  
39 586, or 593 of the Internal Revenue Code applies, a net operating  
40 loss for any taxable year beginning on or after January 1, 1984,

1 shall be a net operating loss carryover to each of the five years  
2 following the taxable year of the loss. Subdivision (b) of Section  
3 24416.1 shall not apply.

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

7 (4) “Taxpayer” means a bank or corporation that conducts a  
8 trade or business within a LAMBRA and, for the first two taxable  
9 years, has a net increase in jobs (defined as 2,000 paid hours per  
10 employee per year) of one or more employees in the LAMBRA  
11 and this state. For purposes of this paragraph, all of the following  
12 shall apply:

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

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

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

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

35 (C) In the case of a taxpayer that first commences doing business  
36 in the LAMBRA during the taxable year, for purposes of clauses  
37 (i) and (ii), respectively, of subparagraph (B) the divisors “2,000”  
38 and “12” shall be multiplied by a fraction, the numerator of which  
39 is the number of months of the taxable year that the taxpayer was

1 doing business in the LAMBRA and the denominator of which is  
2 12.

3 (5) “Net operating loss” means the loss determined under  
4 Section 172 of the Internal Revenue Code, as modified by Section  
5 24416.1, attributable to the taxpayer’s business activities within a  
6 LAMBRA prior to the LAMBRA expiration date. The attributable  
7 loss shall be determined in accordance with Chapter 17  
8 (commencing with Section 25101), modified for purposes of this  
9 section as follows:

10 (A) Loss shall be apportioned to a LAMBRA by multiplying  
11 total loss from the business by a fraction, the numerator of which  
12 is the property factor plus the payroll factor, and the denominator  
13 of which is 2.

14 (B) “The LAMBRA” shall be substituted for “this state.”

15 (6) A net operating loss carryover shall be a deduction only with  
16 respect to the taxpayer’s business income attributable to a  
17 LAMBRA.

18 (7) Attributable income is that portion of the taxpayer’s  
19 California source business income that is apportioned to the  
20 LAMBRA. For that purpose, the taxpayer’s business income  
21 attributable to sources in this state first shall be determined in  
22 accordance with Chapter 17 (commencing with Section 25101).  
23 That business income shall be further apportioned to the LAMBRA  
24 in accordance with Article 2 (commencing with Section 25120)  
25 of Chapter 17, modified as follows:

26 (A) Business income shall be apportioned to a LAMBRA by  
27 multiplying total California business income of the taxpayer by a  
28 fraction, the numerator of which is the property factor plus the  
29 payroll factor, and the denominator of which is two. For purposes  
30 of this clause:

31 (i) 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 LAMBRA during the  
34 taxable year, and the denominator of which is the average value  
35 of all the taxpayer’s real and tangible personal property owned or  
36 rented and used in this state during the taxable year.

37 (ii) The payroll factor is a fraction, the numerator of which is  
38 the total amount paid by the taxpayer in the LAMBRA during the  
39 taxable year for compensation, and the denominator of which is

1 the total compensation paid by the taxpayer in this state during the  
2 taxable year.

3 (B) If a loss carryover is allowable pursuant to this section for  
4 any taxable year after the LAMBRA designation has expired, the  
5 LAMBRA shall be deemed to remain in existence for purposes of  
6 computing the limitation specified in subparagraph (D) and  
7 allowing a net operating loss deduction.

8 (8) “LAMBRA expiration date” means the date the LAMBRA  
9 designation expires, is no longer binding, or becomes inoperative  
10 pursuant to Section 7110 of the Government Code.

11 (b) A taxpayer who qualifies as a “qualified taxpayer” under  
12 one or more sections shall, for the taxable year of the net operating  
13 loss and any taxable year to which that net operating loss may be  
14 carried, designate on the original return filed for each year the  
15 section that applies to that taxpayer with respect to that net  
16 operating loss. If the taxpayer is eligible to qualify under more  
17 than one section, the designation is to be made after taking into  
18 account subdivision (c).

19 (c) If a taxpayer is eligible to qualify under this section and  
20 either Section 24416.2, 24416.4, or 24416.6 as a “qualified  
21 taxpayer,” with respect to a net operating loss in a taxable year,  
22 the taxpayer shall designate which section is to apply to the  
23 taxpayer.

24 (d) Notwithstanding Section 24416, the amount of the loss  
25 determined under this section or Section 24416.2, 24416.4, or  
26 24416.6 shall be the only net operating loss allowed to be carried  
27 over from that taxable year and the designation under subdivision  
28 (b) shall be included in the election under Section 24416.1.

29 (e) This section shall apply to taxable years beginning on and  
30 after January 1, 1998.

31 (f) This section shall cease to be operative for taxable years  
32 beginning on or after January 1, 2014, and shall be repealed on  
33 December 1, 2014.

34 ~~SEC. 44.~~

35 *SEC. 45.* Section 24416.6 of the Revenue and Taxation Code  
36 is amended to read:

37 24416.6. (a) For each taxable year beginning on or after  
38 January 1, 1998, the term “qualified taxpayer” as used in Section  
39 24416.1 includes a corporation that meets both of the following:



1 (1) Is engaged in the conduct of a trade or business within a  
2 targeted tax area designated pursuant to Chapter 12.93  
3 (commencing with Section 7097) of Division 7 of Title 1 of the  
4 Government Code.

5 (2) Is engaged in those lines of business described in Codes  
6 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
7 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
8 of the Standard Industrial Classification (SIC) Manual published  
9 by the United States Office of Management and Budget, 1987  
10 edition. In the case of any pass-through entity, the determination  
11 of whether a taxpayer is a qualified taxpayer shall be made at the  
12 entity level.

13 (b) For purposes of subdivision (a), all of the following shall  
14 apply:

15 (1) A net operating loss shall not be a net operating loss  
16 carryback for any taxable year and a net operating loss for any  
17 taxable year beginning on or after the date that the area in which  
18 the qualified taxpayer conducts a trade or business is designated  
19 as a targeted tax area shall be a net operating loss carryover to each  
20 of the 15 taxable years following the taxable year of loss.

21 (2) "Net operating loss" means the loss determined under  
22 Section 172 of the Internal Revenue Code, as modified by Section  
23 24416.1, attributable to the qualified taxpayer's business activities  
24 within the targeted tax area (as defined in Chapter 12.93  
25 (commencing with Section 7097) of Division 7 of Title 1 of the  
26 Government Code) prior to the targeted tax area expiration date.  
27 That attributable loss shall be determined in accordance with  
28 Chapter 17 (commencing with Section 25101), modified for  
29 purposes of this section as follows:

30 (A) Loss shall be apportioned to the targeted tax area by  
31 multiplying total loss from the business by a fraction, the numerator  
32 of which is the property factor plus the payroll factor, and the  
33 denominator of which is 2.

34 (B) "The targeted tax area" shall be substituted for "this state."

35 (3) A net operating loss carryover shall be a deduction only with  
36 respect to the qualified taxpayer's business income attributable to  
37 the targeted tax area as defined in Chapter 12.93 (commencing  
38 with Section 7097) of Division 7 of Title 1 of the Government  
39 Code.

1 (4) Attributable income is that portion of the taxpayer's  
2 California source business income that is apportioned to the  
3 targeted tax area. For that purpose, the taxpayer's business income  
4 attributable to sources in this state first shall be determined in  
5 accordance with Chapter 17 (commencing with Section 25101).  
6 That business income shall be further apportioned to the targeted  
7 tax area in accordance with Article 2 (commencing with Section  
8 25120) of Chapter 17, modified for purposes of this subdivision  
9 as follows:

10 (A) Business income shall be apportioned to the targeted tax  
11 area by multiplying the total California business income of the  
12 taxpayer by a fraction, the numerator of which is the property  
13 factor plus the payroll factor, and the denominator of which is two.  
14 For purposes of this clause:

15 (i) The property factor is a fraction, the numerator of which is  
16 the average value of the taxpayer's real and tangible personal  
17 property owned or rented and used in the targeted tax area during  
18 the taxable year, and the denominator of which is the average value  
19 of all the taxpayer's real and tangible personal property owned or  
20 rented and used in this state during the taxable year.

21 (ii) The payroll factor is a fraction, the numerator of which is  
22 the total amount paid by the taxpayer in the targeted tax area during  
23 the taxable year for compensation, and the denominator of which  
24 is the total compensation paid by the taxpayer in this state during  
25 the taxable year.

26 (B) If a loss carryover is allowable pursuant to this subdivision  
27 for any taxable year after the targeted tax area expiration date, the  
28 targeted tax area designation shall be deemed to remain in existence  
29 for purposes of computing the limitation specified in subparagraph  
30 (B) and allowing a net operating loss deduction.

31 (5) "Targeted tax area expiration date" means the date the  
32 targeted tax area designation expires, is revoked, is no longer  
33 binding, or becomes inoperative.

34 (c) A taxpayer who qualifies as a "qualified taxpayer" under  
35 one or more sections shall, for the taxable year of the net operating  
36 loss and any taxable year to which that net operating loss may be  
37 carried, designate on the original return filed for each year the  
38 section that applies to that taxpayer with respect to that net  
39 operating loss. If the taxpayer is eligible to qualify under more

1 than one section, the designation is to be made after taking into  
2 account subdivision (e).

3 (d) If a taxpayer is eligible to qualify under this section and  
4 either Section 24416.2, 24416.4, or 24416.5 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 (e) Notwithstanding Section 24416, the amount of the loss  
9 determined under this section or Section 24416.2, 24416.4, or  
10 24416.5 shall be the only net operating loss allowed to be carried  
11 over from that taxable year and the designation under subdivision  
12 (c) shall be included in the election under Section 24416.1.

13 (f) This section shall apply to taxable years beginning on or  
14 after January 1, 1998.

15 (g) This section shall cease to be operative for taxable years  
16 beginning on or after January 1, 2014, and shall be repealed on  
17 December 1, 2014.

18 ~~SEC. 45.~~

19 *SEC. 46.* There is hereby appropriated up to six hundred  
20 thousand dollars (\$600,000) from the General Fund for allocation  
21 to the committee and departments that are required to administer  
22 this act ~~and~~ by the Director of Finance in furtherance of the  
23 objectives of this act. An allocation of funds approved by the  
24 Director of Finance under this item shall become effective no  
25 sooner than 30 days after the director files written notification  
26 thereof with the Chairperson of the Joint Legislative Budget  
27 Committee and the chairpersons of the fiscal committees in each  
28 house of the Legislature, or no sooner than any lesser time the  
29 chairperson of the joint committee, or his or her designee, may in  
30 each instance determine.

31 *SEC. 47. (a) Sections 6377.1, 17053.73, 17059.2, 18410.2,*  
32 *23636, and 23689 of the Revenue and Taxation Code, added by*  
33 *this act, should not remain effective and operative if the repeal of*  
34 *Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47,*  
35 *17053.70, 17053.74, 17053.75, 17053.80, 17235, 17267.2, 17267.6,*  
36 *17268, 17276.2, 17276.5, 17276.6, 19136.8, 23612.2, 23622.7,*  
37 *23622.8, 23623, 23633, 23634, 23645, 23646, 24356.6, 24356.7,*  
38 *24356.8, 24384.5, 24416.2, 24416.5, and 24416.6, as provided*  
39 *for in this act, is determined by a court to be invalid and, as a*  
40 *result, those sections remain effective and operative.*

1     **(b)** *The provisions of Sections 17059.2 and 23689 are severable.*  
2 *If any provision of Section 17059.2 or Section 23689, or the*  
3 *application of either section, is held invalid, that invalidity shall*  
4 *not affect other provisions or applications that can be given effect*  
5 *without the invalid provision or application.*

6     ~~SEC. 46.~~

7     **SEC. 48.** This act is an urgency statute necessary for the  
8 immediate preservation of the public peace, health, or safety within  
9 the meaning of Article IV of the Constitution and shall go into  
10 immediate effect. The facts constituting the necessity are:

11     In order to ensure the public good by providing certainty  
12 regarding the incentives available for attracting and retaining jobs  
13 in economically distressed areas of the state, it is necessary that  
14 this act take effect immediately.