

ASSEMBLY BILL

No. 154

Introduced by Assembly Member Ting

January 16, 2015

An act to amend Sections 17024.5, 17053.46, 17053.47, 17053.74, 17088, 17144, 17215, 18155, 19141.5, 19164, 19167, ~~19172, 19172.5,~~ 19183, 19772, 23622.7, 23622.8, ~~23646,~~ 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, to add Sections 17240, 17241, 17323, 19131.5, 24345.5, 24454, and 24459 to, and to repeal Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Ting. Taxation: federal conformity.

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2010, the specified date of those referenced Internal Revenue Code sections is January 1, 2009, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately

update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, *extension of time for the payment of taxes, deductions for annual fees on branded prescription pharmaceutical manufacturers and importers*, and penalty amounts related to the failure to file specified returns or include specified information on returns.

This bill would also specify various dates on which specified provisions apply and repeal obsolete provisions.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

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

State-mandated local program: no.

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

- 1 SECTION 1. Section 17024.5 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17024.5. (a) (1) Unless otherwise specifically provided, the
- 4 terms "Internal Revenue Code," "Internal Revenue Code of 1954,"

or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991.....	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992.....	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996.....	January 1, 1993
(K) For taxable years beginning on or after	

1	January 1, 1997, and on or before December	
2	31, 1997.....	January 1, 1997
3	(L) For taxable years beginning on or after	
4	January 1, 1998, and on or before December	
5	31, 2001.....	January 1, 1998
6	(M) For taxable years beginning on or after	
7	January 1, 2002, and on or before December	
8	31, 2004.....	January 1, 2001
9	(N) For taxable years beginning on or after	
10	January 1, 2005, and on or before December	
11	31, 2009.....	January 1, 2005
12	(O) For taxable years beginning on or after	
13	January 1, 2010, and on or before December	
14	31, 2014.....	January 1, 2009
15	(P) For taxable years beginning on or after	
16	January 1, 2015.....	January 1, 2015

17
18 (2) (A) Unless otherwise specifically provided, for federal laws
19 enacted on or after January 1, 1987, and on or before the specified
20 date for the taxable year, uncodified provisions that relate to
21 provisions of the Internal Revenue Code that are incorporated for
22 purposes of this part shall be applicable to the same taxable years
23 as the incorporated provisions.

24 (B) In the case where Section 901 of the Economic Growth and
25 Tax Relief Act of 2001 (Public Law 107-16) applies to any
26 provision of the Internal Revenue Code that is incorporated for
27 purposes of this part, Section 901 of the Economic Growth and
28 Tax Relief Act of 2001 shall apply for purposes of this part in the
29 same manner and to the same taxable years as it applies for federal
30 income tax purposes.

31 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
32 H (Repeal of Expired or Obsolete Provisions) of the Revenue
33 Reconciliation Act of 1990 (Public Law 101-508) modified
34 numerous provisions of the Internal Revenue Code and provisions
35 of prior federal acts, some of which are incorporated by reference
36 into this part. Unless otherwise provided, the provisions described
37 in the preceding sentence, to the extent that they modify provisions
38 that are incorporated into this part, are declaratory of existing law
39 and shall be applied in the same manner and for the same periods
40 as specified in the Revenue Reconciliation Act of 1990.

1 (b) Unless otherwise specifically provided, when applying any
2 provision of the Internal Revenue Code for purposes of this part,
3 a reference to any of the following is not applicable for purposes
4 of this part:

5 (1) Except as provided in Chapter 4.5 (commencing with Section
6 23800) of Part 11 of Division 2, an electing small business
7 corporation, as defined in Section 1361(b) of the Internal Revenue
8 Code.

9 (2) Domestic international sales corporations (DISC), as defined
10 in Section 992(a) of the Internal Revenue Code.

11 (3) A personal holding company, as defined in Section 542 of
12 the Internal Revenue Code.

13 (4) A foreign personal holding company, as defined in Section
14 552 of the Internal Revenue Code.

15 (5) A foreign investment company, as defined in Section 1246(b)
16 of the Internal Revenue Code.

17 (6) A foreign trust, as defined in Section 679 of the Internal
18 Revenue Code.

19 (7) Foreign income taxes and foreign income tax credits.

20 (8) Section 911 of the Internal Revenue Code, relating to citizens
21 or residents of the United States living abroad.

22 (9) A foreign corporation, except that Section 367 of the Internal
23 Revenue Code shall be applicable.

24 (10) Federal tax credits and carryovers of federal tax credits.

25 (11) Nonresident aliens.

26 (12) Deduction for personal exemptions, as provided in Section
27 151 of the Internal Revenue Code.

28 (13) The tax on generation-skipping transfers imposed by
29 Section 2601 of the Internal Revenue Code.

30 (14) The tax, relating to estates, imposed by Section 2001 or
31 2101 of the Internal Revenue Code.

32 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
33 and Section 172 of the Tax Reform Act of 1984 (Public Law
34 98-369), relating to treatment of debt instruments, is not applicable
35 for taxable years beginning before January 1, 1987.

36 (2) The provisions contained in Public Law 99-121, relating to
37 the treatment of debt instruments, is not applicable for taxable
38 years beginning before January 1, 1987.

39 (3) For each taxable year beginning on or after January 1, 1987,
40 the provisions referred to by paragraphs (1) and (2) shall be

1 applicable for purposes of this part in the same manner and with
2 respect to the same obligations as the federal provisions, except
3 as otherwise provided in this part.

4 (d) When applying the Internal Revenue Code for purposes of
5 this part, regulations promulgated in final form or issued as
6 temporary regulations by “the secretary” shall be applicable as
7 regulations under this part to the extent that they do not conflict
8 with this part or with regulations issued by the Franchise Tax
9 Board.

10 (e) Whenever this part allows a taxpayer to make an election,
11 the following rules shall apply:

12 (1) A proper election filed with the Internal Revenue Service
13 in accordance with the Internal Revenue Code or regulations issued
14 by “the secretary” shall be deemed to be a proper election for
15 purposes of this part, unless otherwise provided in this part or in
16 regulations issued by the Franchise Tax Board.

17 (2) A copy of that election shall be furnished to the Franchise
18 Tax Board upon request.

19 (3) (A) Except as provided in subparagraph (B), in order to
20 obtain treatment other than that elected for federal purposes, a
21 separate election shall be filed at the time and in the manner
22 required by the Franchise Tax Board.

23 (B) (i) If a taxpayer makes a proper election for federal income
24 tax purposes prior to the time that taxpayer becomes subject to the
25 tax imposed under this part or Part 11 (commencing with Section
26 23001), that taxpayer is deemed to have made the same election
27 for purposes of the tax imposed by this part, Part 10.2 (commencing
28 with Section 18401), and Part 11 (commencing with Section
29 23001), as applicable, and that taxpayer may not make a separate
30 election for California tax purposes unless that separate election
31 is expressly authorized by this part, Part 10.2 (commencing with
32 Section 18401), or Part 11 (commencing with Section 23001), or
33 by regulations issued by the Franchise Tax Board.

34 (ii) If a taxpayer has not made a proper election for federal
35 income tax purposes prior to the time that taxpayer becomes subject
36 to tax under this part or Part 11 (commencing with Section 23001),
37 that taxpayer may not make a separate California election for
38 purposes of this part, Part 10.2 (commencing with Section 18401),
39 or Part 11 (commencing with Section 23001), unless that separate
40 election is expressly authorized by this part, Part 10.2 (commencing

1 with Section 18401), or Part 11 (commencing with Section 23001),
2 or by regulations issued by the Franchise Tax Board.

3 (iii) This subparagraph applies only to the extent that the
4 provisions of the Internal Revenue Code or the regulation issued
5 by “the secretary” authorizing an election for federal income tax
6 purposes apply for purposes of this part, Part 10.2 (commencing
7 with Section 18401) or Part 11 (commencing with Section 23001).

8 (f) Whenever this part allows or requires a taxpayer to file an
9 application or seek consent, the rules set forth in subdivision (e)
10 shall be applicable with respect to that application or consent.

11 (g) When applying the Internal Revenue Code for purposes of
12 determining the statute of limitations under this part, any reference
13 to a period of three years shall be modified to read four years for
14 purposes of this part.

15 (h) When applying, for purposes of this part, any section of the
16 Internal Revenue Code or any applicable regulation thereunder,
17 all of the following shall apply:

18 (1) References to “adjusted gross income” shall mean the
19 amount computed in accordance with Section 17072, except as
20 provided in paragraph (2).

21 (2) (A) Except as provided in subparagraph (B), references to
22 “adjusted gross income” for purposes of computing limitations
23 based upon adjusted gross income, shall mean the amount required
24 to be shown as adjusted gross income on the federal tax return for
25 the same taxable year.

26 (B) In the case of registered domestic partners and former
27 registered domestic partners, adjusted gross income, for the
28 purposes of computing limitations based upon adjusted gross
29 income, shall mean the adjusted gross income on a federal tax
30 return computed as if the registered domestic partner or former
31 registered domestic partner was treated as a spouse or former
32 spouse, respectively, for federal income tax purposes, and used
33 the same filing status that was used on the state tax return for the
34 same taxable year.

35 (3) Any reference to “subtitle” or “chapter” shall mean this part.

36 (4) The provisions of Section 7806 of the Internal Revenue
37 Code, relating to construction of title, shall apply.

38 (5) Any provision of the Internal Revenue Code that becomes
39 operative on or after the specified date for that taxable year shall
40 become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(8) Except as otherwise provided, any reference to Section 501 of the Internal Revenue Code shall be interpreted to also refer to Section 23701.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

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

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

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this

1 section shall not exceed two million dollars (\$2,000,000) per
2 taxable year.

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

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

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

23 (3) "LAMBRA" means a local agency military base recovery
24 area designated in accordance with Section 7114 of the Government
25 Code.

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

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

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

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

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

38 (i) An individual who has been determined eligible for services
39 under the federal Job Training Partnership Act (29 U.S.C. Sec.
40 1501 et seq.).

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

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

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

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

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

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

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

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

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

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

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

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran,

1 veteran of the Vietnam era, or veteran who is recently separated
2 from military service.

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

6 (vii) A recipient of:

7 (I) Federal Supplemental Security Income benefits.

8 (II) Aid to Families with Dependent Children.

9 (III) CalFresh benefits.

10 (IV) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) Obtain from the Employment Development Department, as
27 permitted by federal law, the local county or city Job Training
28 Partnership Act administrative entity, the local county GAIN office
29 or social services agency, or the local government administering
30 the LAMBRA, a certification that provides that a qualified
31 disadvantaged individual or qualified displaced employee meets
32 the eligibility requirements specified in subparagraph (C) of
33 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
34 (6) of subdivision (b). The Employment Development Department
35 may provide preliminary screening and referral to a certifying
36 agency. The Department of Housing and Community Development
37 shall develop regulations governing the issuance of certificates
38 pursuant to Section 7114.2 of the Government Code and shall
39 develop forms for this purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (g) The credit shall be reduced by the credit allowed under
36 Section 17053.7. The credit shall also be reduced by the federal
37 credit allowed under Section 51 of the Internal Revenue ~~Code~~.
38 *Code, as amended by the Emergency Economic Stabilization Act*
39 *of 2008 (Public Law 110-343).*

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

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

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

18 (2) Attributable income shall be 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 that
21 is 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 LAMBRA in accordance with Article 2 (commencing with Section
25 25120) of Chapter 17 of Part 11, modified for purposes of this
26 section in accordance with paragraph (3).

27 (3) Income shall be apportioned to a LAMBRA by multiplying
28 the total California business income of the taxpayer by a fraction,
29 the numerator of which is the property factor plus the payroll factor,
30 and the denominator of which is two. For purposes of this
31 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 LAMBRA during the
35 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 LAMBRA during the
40 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 (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 (h). 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 10 taxable years if necessary, until the
11 credit is exhausted, as if it were an amount exceeding the “net tax”
12 for the taxable year, as provided in subdivision (h).

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

17 (k) (1) Except as provided in paragraph (2), this section shall
18 cease to be operative on January 1, 2014, and shall be repealed on
19 December 1, 2019. A credit shall not be allowed under this section
20 with respect to an employee who first commences employment
21 with a qualified taxpayer on or after January 1, 2014.

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

31 *SEC. 3. Section 17053.47 of the Revenue and Taxation Code*
32 *is amended to read:*

33 17053.47. (a) For each taxable year beginning on or after
34 January 1, 1998, there shall be allowed a credit against the “net
35 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
36 a qualified disadvantaged individual during the taxable year for
37 employment in the manufacturing enhancement area. The credit
38 shall be equal to the sum of each of the following:

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

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

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

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

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

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

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

20 (C) Who is any of the following immediately preceding the
21 individual’s commencement of employment with the qualified
22 taxpayer:

23 (i) An individual who has been determined eligible for services
24 under the federal Job Training Partnership Act (29 U.S.C. Sec.
25 1501 et seq.), or its successor.

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

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

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

39 (A) Is engaged in those lines of business described in Codes
40 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,

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

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

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

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

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

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

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

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

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

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

1 qualified disadvantaged individual completes 90 days of
2 employment with the qualified taxpayer, the tax imposed by this
3 part for the taxable year in which that employment is terminated
4 shall be increased by an amount equal to the credit allowed under
5 subdivision (a) for that taxable year and all prior taxable years
6 attributable to qualified wages paid or incurred with respect to that
7 qualified disadvantaged individual.

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

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

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

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

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

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

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

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

7 (i) A failure to continue the seasonal employment of a qualified
8 disadvantaged individual who voluntarily fails to return to the
9 seasonal employment of the qualified taxpayer.

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

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

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

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

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

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

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

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

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

11 (f) The credit shall be reduced by the credit allowed under
12 Section 17053.7. The credit shall also be reduced by the federal
13 credit allowed under Section 51 of the Internal Revenue ~~Code~~.
14 *Code, as amended by the Emergency Economic Stabilization Act*
15 *of 2008 (Public Law 110-343).*

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

21 (g) 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 10 taxable years, if necessary,
25 until the credit is exhausted. The credit shall be applied first to the
26 earliest taxable years possible.

27 (h) (1) The amount of credit otherwise allowed under this
28 section, including prior year credit carryovers, that may reduce
29 the “net tax” for the taxable year shall not exceed the amount of
30 tax that would be imposed on the qualified taxpayer’s business
31 income attributed to a manufacturing enhancement area determined
32 as if that attributed income represented all of the net income of the
33 qualified 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 manufacturing enhancement area. For that purpose, the taxpayer’s
37 business income that is attributable to sources in this state first
38 shall be determined in accordance with Chapter 17 (commencing
39 with Section 25101) of Part 11. That business income shall be
40 further apportioned to the manufacturing enhancement area in

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

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

9 (A) The property factor is a fraction, the numerator of which is
10 the average value of the taxpayer's real and tangible personal
11 property owned or rented and used in the manufacturing
12 enhancement area during the taxable year, and the denominator
13 of which is the average value of all the taxpayer's real and tangible
14 personal property owned or rented and used in this state during
15 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 manufacturing
18 enhancement area during the taxable year for compensation, and
19 the denominator of which is the total compensation paid by the
20 taxpayer in this state during the 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 (g). 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 10 taxable years if necessary, until the
29 credit is exhausted, as if it were an amount exceeding the "net tax"
30 for the taxable year, as provided in subdivision (g).

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

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

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

1 that a qualified disadvantaged individual meets the eligibility
2 requirements specified in paragraph (5) of subdivision (b). The
3 Employment Development Department may provide preliminary
4 screening and referral to a certifying agency. The Department of
5 Housing and Community Development shall develop regulations
6 governing the issuance of certificates pursuant to subdivision (d)
7 of Section 7086 of the Government Code and shall develop forms
8 for this purpose.

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

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

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

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

25 17053.74. (a) There shall be allowed a credit against the “net
26 tax” (as defined in Section 17039) to a taxpayer who employs a
27 qualified employee in an enterprise zone during the taxable year.
28 The credit shall be equal to the sum of each of the following:

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

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

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

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

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

39 (b) For purposes of this section:

40 (1) “Qualified wages” means:

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

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

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

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

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

31 (3) “Zone expiration date” means the date the enterprise zone
32 designation expires, is no longer binding, becomes inoperative, or
33 is repealed.

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

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

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

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

3 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

3 (ee) Was a civilian employee of the Department of Defense
4 employed at a military installation being closed or realigned 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 taxpayer, was a disabled
18 individual who is eligible for or enrolled in, or has completed a
19 state rehabilitation plan or is a service-connected disabled veteran,
20 veteran of the Vietnam era, or veteran who is recently separated
21 from military service.

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

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

30 (aa) Federal Supplemental Security Income benefits.

31 (bb) Aid to Families with Dependent Children.

32 (cc) CalFresh benefits.

33 (dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (ii) A termination of employment of a qualified employee who,
9 before the close of the period referred to in paragraph (1), becomes
10 disabled and unable 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 employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (h) The credit allowable under this section shall be reduced by
29 the credit allowed under Sections 17053.10, 17053.17, and
30 17053.46 claimed for the same employee. The credit shall also be
31 reduced by the federal credit allowed under Section 51 of the
32 Internal Revenue ~~Code~~. *Code, as amended by the Economic*
33 *Stabilization Act of 2008 (Public Law 110-343).*

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

38 (i) In the case where the credit otherwise allowed under this
39 section exceeds the “net tax” for the taxable year, that portion of
40 the credit that exceeds the “net tax” may be carried over and added

1 to the credit, if any, in the succeeding 10 taxable years, if necessary,
2 until the credit is exhausted. The credit shall be applied first to the
3 earliest taxable years possible.

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

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

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

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

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

36 (4) The portion of any credit remaining, if any, after application
37 of this subdivision, shall be carried over to succeeding taxable
38 years, if necessary, until the credit is exhausted, as if it were an
39 amount exceeding the “net tax” for the taxable year, as provided
40 in subdivision (i). However, the portion of any credit remaining

1 for carryover to taxable years beginning on or after January 1,
2 2014, if any, after application of this subdivision, shall be carried
3 over only to the succeeding 10 taxable years if necessary, until the
4 credit is exhausted, as if it were an amount exceeding the “net tax”
5 for the taxable year, as provided in subdivision (i).

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

9 (l) (1) Except as provided in paragraph (2), this section shall
10 cease to be operative on January 1, 2014, and shall be repealed on
11 December 1, 2019. A credit shall not be allowed under this section
12 with respect to an employee who first commences employment
13 with a taxpayer on or after January 1, 2014.

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

22 ~~SEC. 2:~~

23 *SEC. 5.* Section 17088 of the Revenue and Taxation Code is
24 amended to read:

25 17088. (a) Subchapter M of Chapter 1 of Subtitle A of the
26 Internal Revenue Code, relating to regulated investment companies
27 and real estate investment trusts, shall apply, except as otherwise
28 provided.

29 (b) Section 17145 shall apply in lieu of Section 852(b)(5) of the
30 Internal Revenue Code, relating to exempt-interest dividends.

31 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,
32 relating to treatment by shareholders of undistributed capital gains,
33 shall not apply.

34 (2) Section 852(g)(1)(A) of the Internal Revenue Code is
35 modified by substituting the phrase “subdivision (a) of Section
36 17145” for the phrase “the first sentence of subsection (b)(5)”
37 contained therein.

38 ~~SEC. 3:~~

39 *SEC. 6.* Section 17131.7 of the Revenue and Taxation Code is
40 repealed.

~~SEC. 4.~~

SEC. 7. Section 17131.12 of the Revenue and Taxation Code is repealed.

~~SEC. 5.~~

SEC. 8. Section 17131.14 of the Revenue and Taxation Code is repealed.

~~SEC. 6.~~

SEC. 9. Section 17134.1 of the Revenue and Taxation Code is repealed.

~~SEC. 7.~~

SEC. 10. Section 17144 of the Revenue and Taxation Code is amended to read:

17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “(\$9)” in lieu of “(\$3).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(f) Section 108(i) of the Internal Revenue Code, relating to deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument, shall not apply.

~~SEC. 8.~~

SEC. 11. Section 17201.1 of the Revenue and Taxation Code is repealed.

~~SEC. 9.~~

SEC. 12. Section 17215 of the Revenue and Taxation Code is amended to read:

17215. (a) Section 220(a) of the Internal Revenue Code, relating to deduction allowed, is modified to provide that the amount allowed as a deduction shall be an amount equal to the amount allowed to that individual as a deduction under Section 220 of the Internal Revenue Code, relating to medical savings accounts, on the federal income tax return filed for the same taxable year by that individual.

(b) Section 220(f)(4) of the Internal Revenue Code, relating to additional tax on distributions not used for qualified medical expenses, is modified by substituting “12.5 percent” in lieu of “20 percent.”

(c) The amendments made to this section by the act adding this subdivision shall apply to disbursements made during taxable years beginning on or after January 1, 2016.

~~SEC. 10.~~

SEC. 13. Section 17240 is added to the Revenue and Taxation Code, to read:

17240. The fee imposed by Section 9008 of the Patient Protection and Affordable Care Act (Public Law 111-148), shall ~~not~~ be considered a tax described in Section 275(a)(6) of the Internal Revenue Code.

~~SEC. 11.~~

SEC. 14. Section 17241 is added to the Revenue and Taxation Code, to read:

17241. (a) Section 213(a) of the Internal Revenue Code, relating to allowance of deduction, is modified by substituting “7.5 percent” for “10 percent.”

(b) Section 213(f) of the Internal Revenue Code, relating to special rule for 2013, 2014, 2015, and 2016, shall not apply.

~~SEC. 12.~~

SEC. 15. Section 17280.1 of the Revenue and Taxation Code is repealed.

~~SEC. 13.~~

SEC. 16. Section 17322.1 of the Revenue and Taxation Code is repealed.

~~SEC. 14.~~

SEC. 17. Section 17323 is added to the Revenue and Taxation Code, to read:

17323. Section 382(n) of the Internal Revenue Code, relating to special rule for certain ownership changes, shall not apply.

~~SEC. 15.~~

SEC. 18. Section 18155 of the Revenue and Taxation Code is amended to read:

18155. A deduction shall not be allowed for capital loss carrybacks provided by Section 1212 of the Internal Revenue Code, relating to capital loss carrybacks and carryovers.

~~SEC. 16.~~

SEC. 19. Section 19131.5 is added to the Revenue and Taxation Code, to read:

19131.5. (a) Section 6164 of the Internal Revenue Code, relating to extension of time for payment of taxes by corporations expecting carrybacks, shall apply, except as otherwise provided.

(b) (1) Section 6164 of the Internal Revenue Code is modified by substituting the phrase “Secretary or the Franchise Tax Board” for the word “Secretary” in each place it appears.

(2) Section 6164(a) of the Internal Revenue Code is modified by substituting the phrase “Part 11 (commencing with Section 23001)” in lieu of the phrase “subtitle A.”

(3) Section 6164(b) of the Internal Revenue Code, relating to contents of statement, is modified by substituting the phrase “Section 24416.20” in lieu of the phrase “Section 172(b).”

(4) Section 6164(d)(2) of the Internal Revenue Code is modified by substituting the phrase “Section 19307.5” in lieu of the phrase “Section 6411.” *shall not apply.*

(5) Section 6164(h) of the Internal Revenue Code, relating to jeopardy, is modified as follows:

(A) By substituting the phrase “he or the Franchise Tax Board” for the word “he” in each place it appears.

(B) By substituting the phrase “him or the Franchise Tax Board” for the word “him” in each place it appears.

(6) Section 6164(i) of the Internal Revenue Code, relating to consolidated returns, is modified by substituting the phrase

1 “combined report” in lieu of the phrase “consolidated return” in
2 each place it appears.

3 ~~SEC. 17.~~

4 *SEC. 20.* Section 19141.5 of the Revenue and Taxation Code
5 is amended to read:

6 19141.5. (a) (1) Section 6038A of the Internal Revenue Code,
7 relating to information with respect to certain foreign-owned
8 corporations, shall apply.

9 (2) A penalty shall be imposed under this part for failure to
10 furnish information or maintain records and that penalty shall be
11 determined in accordance with Section 6038A of the Internal
12 Revenue Code.

13 (3) Section 11314 of Public Law 101-508, relating to application
14 of amendments made by Section 7403 of the Revenue
15 Reconciliation Act of 1989 to taxable years beginning on or before
16 July 10, 1989, shall apply.

17 (4) Section 6038A(e) of the Internal Revenue Code, relating to
18 enforcement of requests for certain records, is modified as follows:

19 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
20 Revenue Code shall instead refer to Section 19504.

21 (B) Each reference to “summons” shall instead refer to
22 “subpoena duces tecum.”

23 (C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall
24 refer to “superior courts of the State of California for the Counties
25 of Los Angeles, Sacramento, and San Diego, and for the City and
26 County of San Francisco,” instead of “United States district court
27 for the district in which the person (to whom the summons is
28 issued) resides or is found.”

29 (b) In the case of a corporation, each of the following shall
30 apply:

31 (1) Section 6038B of the Internal Revenue Code, relating to
32 notice of certain transfers to foreign persons, shall apply, except
33 as otherwise provided.

34 (2) The information required to be filed with the Franchise Tax
35 Board under this subdivision shall be a copy of the information
36 required to be filed with the Internal Revenue Service.

37 (3) (A) A penalty shall be imposed under this part for failure
38 to furnish information and that penalty shall be determined in
39 accordance with Section 6038B of the Internal Revenue Code,
40 except as otherwise provided.

1 (B) Subparagraph (A) shall not apply to any transfer described
2 in Section 6038B(a)(1)(B) of the Internal Revenue Code.

3 (c) (1) Section 6038C of the Internal Revenue Code, relating
4 to information with respect to foreign corporations engaged in
5 United States business, shall apply.

6 (2) A penalty shall be imposed under this part for failure to
7 furnish information or maintain records and that penalty shall be
8 determined in accordance with Section 6038C of the Internal
9 Revenue Code.

10 (3) Section 6038C(d) of the Internal Revenue Code, relating to
11 enforcement of requests for certain records, is modified as follows:

12 (A) Each reference to Section 7602, 7603, or 7604 of the Internal
13 Revenue Code shall instead refer to Section 19504.

14 (B) Each reference to “summons” shall instead refer to
15 “subpoena duces tecum.”

16 (d) (1) Section 6038D of the Internal Revenue Code, relating
17 to information with respect to foreign financial assets, shall apply.

18 (2) A penalty shall be imposed under this part for failure to
19 furnish information and that penalty shall be determined in
20 accordance with Section 6038D of the Internal Revenue Code.

21 (e) For purposes of this part, the information required to be filed
22 with the Franchise Tax Board pursuant to this section shall be a
23 copy of the information filed with the Internal Revenue Service.

24 (f) For purposes of this section, each of the following shall
25 apply:

26 (1) Section 7701(a)(4) of the Internal Revenue Code, relating
27 to the term “domestic,” shall apply.

28 (2) Section 7701(a)(5) of the Internal Revenue Code, relating
29 to the term “foreign,” shall apply.

30 (3) Section 7701(a)(30) of the Internal Revenue Code, relating
31 to the term “United States person,” shall apply. However, the term
32 “United States person” shall not include any corporation that is
33 not subject to the tax imposed under Chapter 2 (commencing with
34 Section 23101), Chapter 2.5 (commencing with Section 23400),
35 or Chapter 3 (commencing with Section 23501), of Part 11.

36 (g) The amendments made to this section by the act adding this
37 subdivision shall apply to taxable years beginning on or after
38 January 1, 2016.

1 ~~SEC. 18.~~

2 *SEC. 21.* Section 19164 of the Revenue and Taxation Code is
3 amended to read:

4 19164. (a) (1) (A) An accuracy-related penalty shall be
5 imposed under this part and shall be determined in accordance
6 with Section 6662 of the Internal Revenue Code, relating to
7 imposition of accuracy-related penalty on underpayments, except
8 as otherwise provided.

9 (B) (i) Except for understatements relating to reportable
10 transactions to which Section 19164.5 applies, in the case of any
11 proposed deficiency assessment issued after the last date of the
12 amnesty period specified in Chapter 9.1 (commencing with Section
13 19730) for any taxable year beginning prior to January 1, 2003,
14 the penalty specified in Section 6662(a) of the Internal Revenue
15 Code shall be computed by substituting “40 percent” for “20
16 percent.”

17 (ii) Clause (i) shall not apply to any taxable year of a taxpayer
18 beginning prior to January 1, 2003, if, as of the start date of the
19 amnesty program period specified in Section 19731, the taxpayer
20 is then under audit by the Franchise Tax Board, or the taxpayer
21 has filed a protest under Section 19041, or the taxpayer has filed
22 an appeal under Section 19045, or the taxpayer is engaged in
23 settlement negotiations under Section 19442, or the taxpayer has
24 a pending judicial proceeding in any court of this state or in any
25 federal court relating to the tax liability of the taxpayer for that
26 taxable year.

27 (2) With respect to corporations, this subdivision shall apply to
28 all of the following:

29 (A) All taxable years beginning on or after January 1, 1990.

30 (B) Any other taxable year for which an assessment is made
31 after July 16, 1991.

32 (C) For purposes of this section, references in Section 6662(e)
33 of the Internal Revenue Code and the regulations thereunder,
34 relating to treatment of an affiliated group that files a consolidated
35 federal return, are modified to apply to those entities required to
36 be included in a combined report under Section 25101 or 25110.
37 For these purposes, entities included in a combined report pursuant
38 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall
39 be considered only to the extent required to be included in the
40 combined report.

1 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is
2 modified to provide that in the case of a corporation, other than
3 an “S” corporation, there is a substantial understatement of tax for
4 any taxable year if the amount of the understatement for the taxable
5 year exceeds the lesser of:

6 (A) Ten percent of the tax required to be shown on the return
7 for the taxable year (or, if greater, two thousand five hundred
8 dollars (\$2,500)).

9 (B) Five million dollars (\$5,000,000).

10 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is
11 modified to additionally provide that the excess determined under
12 Section 6662(d)(2)(A) of the Internal Revenue Code shall be
13 determined without regard to items to which Section 19164.5
14 applies and without regard to items with respect to which a penalty
15 is imposed by Section 19774.

16 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the
17 Internal Revenue Code shall apply to returns filed on or after
18 January 1, 2010.

19 (b) For purposes of Section 6662(d) of the Internal Revenue
20 Code, Section 6664 of the Internal Revenue Code, Section
21 6694(a)(1) of the Internal Revenue Code, and this part, the
22 Franchise Tax Board may prescribe a list of positions for which
23 the Franchise Tax Board believes there is not substantial authority
24 or there is no reasonable belief that the tax treatment is more likely
25 than not the proper tax treatment. That list (and any revisions
26 thereof) shall be published through the use of Franchise Tax Board
27 Notices or other published positions. In addition, the “listed
28 transactions” identified and published pursuant to the preceding
29 sentence shall be published on the Web site of the Franchise Tax
30 Board.

31 (c) A fraud penalty shall be imposed under this part and shall
32 be determined in accordance with Section 6663 of the Internal
33 Revenue Code, relating to imposition of fraud penalty, except as
34 otherwise provided.

35 (d) (1) Section 6664 of the Internal Revenue Code, relating to
36 definitions and special rules, shall apply, except as otherwise
37 provided.

38 (2) Section 6664(c)(3) of the Internal Revenue Code shall apply
39 to returns filed on or after January 1, 2010.

(3) Section 6664(c)(4) of the Internal Revenue Code shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

(e) Except for purposes of subdivision (e) of Section 19774, Section 6662(b)(6) of the Internal Revenue Code shall not apply.

(f) Except for purposes of subdivision (e) of Section 19774, Section 6662(i) of the Internal Revenue Code, relating to increase in penalty in case of nondisclosed noneconomic substance transactions, shall not apply.

(g) Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply, except as otherwise provided.

(h) The amendments made to this section by Chapter 14 of the Statutes of 2011 shall apply to notices mailed on or after January 1, 2012.

~~SEC. 19.~~

SEC. 22. Section 19167 of the Revenue and Taxation Code is amended to read:

19167. A penalty shall be imposed under this section for any of the following:

(a) In accordance with Section 6695(a) of the Internal Revenue Code, relating to failure to furnish a copy to taxpayer, as required by Section 18625, except as otherwise provided.

(b) In accordance with Section 6695(c) of the Internal Revenue Code, relating to failure to furnish identifying number, as required by Section 18624, except as otherwise provided.

(c) In accordance with Section 6695(d) of the Internal Revenue Code, relating to failure to retain—a copy or list, as required by Section 18625 or for failure to retain an electronic filing declaration, as required by Section 18621.5, except as otherwise provided.

(d) Section 6695(h) of the Internal Revenue Code, relating to adjustment for inflation, shall not apply.

(e) Failure to register as a tax preparer with the California Tax Education Council, as required by Section 22253 of the Business and Professions Code, unless it is shown that the failure was due to reasonable cause and not due to willful neglect.

(1) The amount of the penalty under this subdivision for the first failure to register is two thousand five hundred dollars (\$2,500). This penalty shall be waived if proof of registration is

1 provided to the Franchise Tax Board within 90 days from the date
2 notice of the penalty is mailed to the tax preparer.

3 (2) The amount of the penalty under this subdivision for a failure
4 to register, other than the first failure to register, is five thousand
5 dollars (\$5,000).

6 (f) The Franchise Tax Board shall not impose the penalties
7 authorized by subdivision (e) until either one of the following has
8 occurred:

9 (1) Commencing January 1, 2006, and continuing each year
10 thereafter, there is an appropriation in the Franchise Tax Board's
11 annual budget to fund the costs associated with the penalty
12 authorized by subdivision (e).

13 (2) (A) An agreement has been executed between the California
14 Tax Education Council and the Franchise Tax Board that provides
15 that an amount equal to all first year costs associated with the
16 penalty authorized by subdivision (e) shall be received by the
17 Franchise Tax Board. For purposes of this subparagraph, first year
18 costs include, but are not limited to, costs associated with the
19 development of processes or systems changes, if necessary, and
20 labor.

21 (B) An agreement has been executed between the California
22 Tax Education Council and the Franchise Tax Board that provides
23 that the annual costs incurred by the Franchise Tax Board
24 associated with the penalty authorized by subdivision (e) shall be
25 reimbursed by the California Tax Education Council to the
26 Franchise Tax Board.

27 (C) Pursuant to the agreement described in subparagraph (A),
28 the Franchise Tax Board has received an amount equal to the first
29 year costs described in that subparagraph.

30 ~~SEC. 20. Section 19172 of the Revenue and Taxation Code is~~
31 ~~amended to read:~~

32 ~~19172. (a) In addition to the penalty imposed by Section 19706~~
33 ~~(relating to willful failure to file return, supply information, or pay~~
34 ~~tax), if any partnership required to file a return under Section 18633~~
35 ~~or 18633.5 for any taxable year does either of the following:~~

36 ~~(1) Fails to file the return at the time prescribed therefor~~
37 ~~(determined with regard to any extension of time for filing).~~

38 ~~(2) Files a return which fails to show the information required~~
39 ~~under Section 18633 or 18633.5, that partnership shall be liable~~
40 ~~for a penalty determined under subdivision (b) for each month (or~~

~~fraction thereof) during which that failure continues (but not to exceed 12 months), unless it is shown that the failure is due to reasonable cause.~~

~~(b) For purposes of subdivision (a), the amount determined under this subdivision for any month is the product of the following:~~

~~(1) Thirty-nine dollars (\$39), multiplied by~~

~~(2) The number of persons who were partners in the partnership during any part of the taxable year.~~

~~(c) The penalty imposed by subdivision (a) shall be assessed against the partnership.~~

~~(d) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).~~

~~(e) The amendments made to this section by Chapter 14 of the Statutes of 2010 shall apply to returns required to be filed after January 1, 2011.~~

~~(f) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2016.~~

~~SEC. 21. Section 19172.5 of the Revenue and Taxation Code is amended to read:~~

~~19172.5. (a) In addition to the penalty imposed by Section 19706, if any "S" corporation required to file a return under Section 18601 for any taxable year fails to file the return at the time prescribed therefor (determined with regard to any extension of time for filing), or files a return that fails to show the information required under Section 18601, then that "S" corporation shall be liable for a penalty determined under subdivision (b) for each month (or fraction thereof) during which that failure continues (but not to exceed 12 months), unless that failure is due to reasonable cause.~~

~~(b) (1) For purposes of subdivision (a), the amount determined under this subdivision for any month is the product of the following:~~

~~(2) Thirty-nine dollars (\$39), multiplied by the number of persons who were shareholders in the "S" corporation during any part of the taxable year.~~

1 ~~(e) The penalty imposed by subdivision (a) shall be assessed~~
2 ~~against the “S” corporation.~~

3 ~~(d) Article 3 (commencing with Section 19031), relating to~~
4 ~~deficiency assessments, shall not apply with respect to the~~
5 ~~assessment or collection of any penalty imposed by subdivision~~
6 ~~(a).~~

7 ~~(e) This section shall apply to returns required to be filed after~~
8 ~~January 1, 2011.~~

9 ~~(f) The amendments made to this section by the act adding this~~
10 ~~subdivision shall apply to returns for taxable years beginning on~~
11 ~~or after January 1, 2016.~~

12 ~~SEC. 22.~~

13 ~~SEC. 23.~~ Section 19183 of the Revenue and Taxation Code is
14 amended to read:

15 19183. (a) (1) A penalty shall be imposed for failure to file
16 correct information returns, as required by this part, and that
17 penalty shall be determined in accordance with Section 6721 of
18 the Internal Revenue Code, relating to failure to file correct
19 information returns.

20 (2) Section 6721(e) of the Internal Revenue Code, relating to
21 penalty in case of intentional disregard, is modified to the extent
22 that the reference to Section 6041A(b) of the Internal Revenue
23 Code, relating to direct sales of \$5,000 or more, shall not apply.

24 (3) Section 6721(f)(1) of the Internal Revenue Code is modified
25 to substitute the phrase “For each fifth calendar year beginning
26 after 2014” for the phrase “In the case of any failure relating to a
27 return required to be filed in a calendar year beginning after 2014.”

28 (b) (1) A penalty shall be imposed for failure to furnish correct
29 payee statements as required by this part, and that penalty shall be
30 determined in accordance with Section 6722 of the Internal
31 Revenue Code, relating to failure to furnish correct payee
32 statements.

33 (2) Section 6722(c) of the Internal Revenue Code, relating to
34 exception for de minimus failures, is modified to the extent that
35 the references to Sections 6041A(b) and 6041A(e) of the Internal
36 Revenue Code, relating to direct sales of \$5,000 or more, and
37 statements to be furnished to persons with respect to whom
38 information is required to be furnished, shall not apply.

39 (3) Section 6722(f)(1) of the Internal Revenue Code is modified
40 to substitute the phrase “For each fifth calendar year beginning

1 after 2014” for the phrase “In the case of any failure relating to a
2 return required to be filed in a calendar year beginning after 2014.”

3 (c) A penalty shall be imposed for failure to comply with other
4 information reporting requirements under this part, and that penalty
5 shall be determined in accordance with Section 6723 of the Internal
6 Revenue Code, relating to failure to comply with other information
7 reporting requirements.

8 (d) (1) The provisions of Section 6724 of the Internal Revenue
9 Code, relating to waiver; definitions, and special rules, shall apply,
10 except as otherwise provided.

11 (2) Section 6724(d)(1) of the Internal Revenue Code, relating
12 to information return, is modified as follows:

13 (A) The following references are substituted:

14 (i) Subdivision (a) of Section 18640, in lieu of Section
15 6044(a)(1) of the Internal Revenue Code.

16 (ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a)
17 of the Internal Revenue Code, relating to reports.

18 (B) References to Sections 4101(d), 6041(b), 6041A(b), 6045(d),
19 6051(d), and 6053(c)(1) of the Internal Revenue Code shall not
20 apply.

21 (C) The term “information return” shall also include both of the
22 following:

23 (i) The return required by paragraph (1) of subdivision (i) of
24 Section 18662.

25 (ii) The return required by subdivision (a) of Section 18631.7.

26 (3) Section 6724(d)(2) of the Internal Revenue Code, relating
27 to payee statement, is modified as follows:

28 (A) The following references are substituted:

29 (i) Subdivision (b) of Section 18640, in lieu of Section 6044(e)
30 of the Internal Revenue Code, relating to statements to be furnished
31 to persons with respect to whom information is required.

32 (ii) Subdivision (b) of Section 18644, in lieu of Section
33 6050A(b) of the Internal Revenue Code, relating to written
34 statement.

35 (B) References to Sections 6031(b), 6037(b), 6041A(e), 6045(d),
36 6051(d), 6053(b), and 6053(c) of the Internal Revenue Code shall
37 not apply.

38 (C) The term “payee statement” shall also include the statement
39 required by paragraph (2) of subdivision (i) of Section 18662.

(e) In the case of each failure to provide a written explanation as required by Section 402(f) of the Internal Revenue Code, relating to written explanation to recipients of distributions eligible for rollover treatment, at the time prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Franchise Tax Board and in the same manner as tax, by the person failing to provide that written explanation, an amount equal to ten dollars (\$10) for each failure, but the total amount imposed on that person for all those failures during any calendar year shall not exceed five thousand dollars (\$5,000).

(f) Any penalty imposed by this part shall be paid on notice and demand by the Franchise Tax Board and in the same manner as tax.

(g) The amendments made to this section by the act adding this subdivision shall apply to information returns required to be filed on or after January 1, 2016.

~~SEC. 23.~~

SEC. 24. Section 19772 of the Revenue and Taxation Code is amended to read:

19772. (a) Section 6707A of the Internal Revenue Code, relating to penalty for failure to include reportable transactions information with a return, shall apply, except as otherwise provided.

(b) (1) Section 6707A(b)(1) of the Internal Revenue Code relating to amount of penalty is modified by substituting the phrase “or which would have resulted from such transaction if such transaction were respected for state tax purposes” for the phrase “or which would have resulted from such transaction if such transaction were respected for Federal tax purposes.”

(2) The penalty amounts in Section 6707A(b)(2)(A) of the Internal Revenue Code are modified by substituting “\$30,000 (\$15,000” for “\$200,000 (\$100,000.”

(3) The penalty amounts in Section 6707A(b)(2)(B) of the Internal Revenue Code are modified by substituting “\$15,000 (\$5,000” for “\$50,000 (\$10,000.”

(4) The penalty amounts in Section 6707A(b)(3) of the Internal Revenue Code relating to minimum penalty are modified by substituting “\$2,500 (\$1,250” for “\$10,000 (\$5,000.”

1 (c) (1) Section 6707A(c)(1) of the Internal Revenue Code
2 relating to reportable transaction is modified to include reportable
3 transactions within the meaning of paragraph (3) of subdivision
4 (a) of Section 18407.

5 (2) Section 6707A(c)(2) of the Internal Revenue Code relating
6 to listed transaction is modified to include listed transactions within
7 the meaning of paragraph (4) of subdivision (a) of Section 18407.

8 (d) The penalty under this section only applies to taxpayers with
9 taxable income greater than two hundred thousand dollars
10 (\$200,000).

11 (e) Section 6707A(e) of the Internal Revenue Code, relating to
12 a penalty reported to the Securities and Exchange Commission,
13 shall not apply.

14 (f) Section 6707A(d) of the Internal Revenue Code, relating to
15 authority to rescind penalty, shall not apply, and in lieu thereof,
16 the following shall apply:

17 (1) The Chief Counsel of the Franchise Tax Board may rescind
18 all or any portion of any penalty imposed by this section with
19 respect to any violation if all of the following apply:

20 (A) The violation is with respect to a reportable transaction
21 other than a listed transaction.

22 (B) The person on whom the penalty is imposed has a history
23 of complying with the requirements of this part and Part 10
24 (commencing with Section 17001) or Part 11 (commencing with
25 Section 23001).

26 (C) It is shown that the violation is due to an unintentional
27 mistake of fact.

28 (D) Imposing the penalty would be against equity and good
29 conscience.

30 (E) Rescinding the penalty would promote compliance with the
31 requirements of this part and Part 10 (commencing with Section
32 17001) or Part 11 (commencing with Section 23001) and effective
33 tax administration.

34 (2) The exercise of authority under paragraph (1) shall be at the
35 sole discretion of the Chief Counsel of the Franchise Tax Board
36 and may not be delegated.

37 (3) Notwithstanding any other law or rule of law, any
38 determination under this subdivision may not be reviewed in any
39 administrative or judicial proceeding.

(g) Article 3 (commencing with Section 19031) of Chapter 4 (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed under this section.

(h) The penalty imposed by this section is in addition to any penalty imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(i) The amendments made to this section by the act adding this subdivision shall apply to penalties assessed on or after January 1, 2016.

SEC. 25. Section 23622.7 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

32 (iv) Is any of the following:

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

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

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

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

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

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

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

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

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

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

38 (gg) Is a seasonal or migrant worker who experiences chronic
39 seasonal unemployment and underemployment in the agriculture

1 industry, aggravated by continual advancements in technology and
2 mechanization.

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

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

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

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

20 (aa) Federal Supplemental Security Income benefits.

21 (bb) Aid to Families with Dependent Children.

22 (cc) CalFresh benefits.

23 (dd) State and local general assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (h) The credit allowable under this section shall be reduced by
32 the credit allowed under Sections 23623.5, 23625, and 23646
33 claimed for the same employee. The credit shall also be reduced
34 by the federal credit allowed under Section 51 of the Internal
35 Revenue ~~Code~~. *Code, as amended by the Emergency Economic*
36 *Stabilization Act of 2008 (Public Law 110-343).*

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

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

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

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

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

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

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

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

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

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

11 (l) (1) Except as provided in paragraph (2), this section shall
12 cease to be operative on January 1, 2014, and shall be repealed on
13 December 1, 2019. A credit shall not be allowed under this section
14 with respect to an employee who first commences employment
15 with a taxpayer on or after January 1, 2014.

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

24 *SEC. 26. Section 23622.8 of the Revenue and Taxation Code*
25 *is amended to read:*

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

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

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

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

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

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

3 (b) For purposes of this section:

4 (1) "Qualified wages" means:

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

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

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

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

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

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

38 (4) "Manufacturing enhancement area expiration date" means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, 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 corporation engaged in a
29 trade or business within a manufacturing enhancement area
30 designated pursuant to Section 7073.8 of the Government Code
31 and that meets all of the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue ~~Code~~. *Code, as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343).*

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

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

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

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

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

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

1 of which is the average value of all the taxpayer's real and tangible
2 personal property owned or rented and used in this state during
3 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 manufacturing
6 enhancement area during the taxable year for compensation, and
7 the denominator of which is the total compensation paid by the
8 taxpayer in this state during 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 (g). 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 10 taxable years if necessary, until the credit
17 is exhausted, as if it were an amount exceeding the "tax" for the
18 taxable year, as provided in subdivision (g).

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

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

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

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

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

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

SEC. 27. Section 23646 of the Revenue and Taxation Code is amended to read:

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the “tax” (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

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

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

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

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

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

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

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

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

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

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

36 (i) An individual who has been determined eligible for services
37 under the federal Job Training Partnership Act (29 U.S.C. Sec.
38 1501 et seq.), or its successor.

39 (ii) Any voluntary or mandatory registrant under the Greater
40 Avenues for Independence Act of 1985 provided for pursuant to

1 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
2 3 of Division 9 of the Welfare and Institutions Code.

3 (iii) An economically disadvantaged individual 16 years of age
4 or older.

5 (iv) A dislocated worker who meets any of the following
6 conditions:

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

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

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

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

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

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

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

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

37 (v) An individual who is enrolled in or has completed a state
38 rehabilitation plan or is a service-connected disabled veteran,
39 veteran of the Vietnam era, or veteran who is recently separated
40 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 corporation that conducts a
12 trade or business within a LAMBRA and, for the first two taxable
13 years, has a net increase in jobs (defined as 2,000 paid hours per
14 employee per year) of one or more employees as determined below
15 in the 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 qualified taxpayer that first commences
38 doing business in the LAMBRA during the taxable year, for
39 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
40 the divisors “2,000” and “12” shall be multiplied by a fraction, the

1 numerator of which is the number of months of the taxable year
2 that the taxpayer was doing business in the LAMBRA and the
3 denominator 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 that 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 administrative entity of the local
26 county or city for the federal Job Training Partnership Act, or its
27 successor, the local county GAIN office or social services agency,
28 or the local government administering the LAMBRA, a
29 certification that provides that a qualified disadvantaged individual
30 or qualified displaced employee meets the eligibility requirements
31 specified in subparagraph (C) of paragraph (4) of subdivision (b)
32 or subparagraph (A) of paragraph (6) of subdivision (b). The
33 Employment Development Department may provide preliminary
34 screening and referral to a certifying agency. The Department of
35 Housing and Community Development shall develop regulations
36 governing the issuance of certificates pursuant to Section 7114.2
37 of the Government Code and shall 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 all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single employer.

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

7 (2) For purposes of this subdivision, “controlled group of
8 corporations” has the meaning given to that term by Section
9 1563(a) of the Internal Revenue Code, except that both of the
10 following apply:

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

14 (B) The determination shall be made without regard to Section
15 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
16 Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and the qualified taxpayer fails to offer seasonal employment to
2 that qualified disadvantaged individual.

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

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

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

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

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

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

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

30 (4) At the close of the second taxable year, if the taxpayer has
31 not increased the number of its employees as determined by
32 paragraph (5) of subdivision (b), then the amount of the credit
33 previously claimed shall be added to the taxpayer's tax for the
34 taxpayer's second taxable year.

35 (f) In the case of an organization to which Section 593 of the
36 Internal Revenue Code applies, and a regulated investment
37 company or a real estate investment trust subject to taxation under
38 this part, rules similar to the rules provided in Section 46(e) and
39 Section 46(h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code, *as amended by the Emergency Stabilization Act of 2008 (Public Law 110-343)*.

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

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

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

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

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

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

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

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

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

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

22 (k) (1) Except as provided in paragraph (2), this section shall
23 cease to be operative on January 1, 2014, and shall be repealed on
24 December 1, 2019. A credit shall not be allowed under this section
25 with respect to an employee who first commences employment
26 with a qualified taxpayer on or after January 1, 2014.

27 (2) This section shall continue to apply with respect to qualified
28 disadvantaged individuals or qualified displaced employees who
29 are employed by the qualified taxpayer within the LAMBRA within
30 the 60-month period immediately preceding January 1, 2014, and
31 qualified wages paid or incurred with respect to those qualified
32 disadvantaged individuals or qualified displaced employees shall
33 continue to qualify for the credit under this section for taxable
34 years beginning on or after January 1, 2014, in accordance with
35 this section, as amended by the act adding this subdivision.

36 ~~SEC. 24.~~

37 *SEC. 28.* Section 23701i of the Revenue and Taxation Code
38 is amended to read:

39 23701i. A voluntary employees' beneficiary association
40 described in Section 501(c)(9) of the Internal Revenue Code.

1 ~~SEC. 25.~~

2 *SEC. 29.* Section 24307 of the Revenue and Taxation Code is
3 amended to read:

4 24307. (a) Section 108 of the Internal Revenue Code, relating
5 to income from discharge of indebtedness, shall apply, except as
6 otherwise provided.

7 (b) Section 108(b)(2)(B) of the Internal Revenue Code, relating
8 to general business credit, is modified by substituting “this part”
9 in lieu of “Section 38 (relating to general business credit).”

10 (c) Section 108(b)(2)(G) of the Internal Revenue Code, relating
11 to foreign tax credit carryovers, shall not apply.

12 (d) Section 108(b)(3)(B) of the Internal Revenue Code, relating
13 to credit carryover reduction, is modified by substituting “11.1
14 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In
15 the case where more than one credit is allowable under this part,
16 the credits shall be reduced on a pro rata basis.

17 (e) Section 108(g)(3)(B) of the Internal Revenue Code, relating
18 to adjusted tax attributes, is modified by substituting “\$9” in lieu
19 of “\$3.”

20 (f) (1) The amendments to Section 108 of the Internal Revenue
21 Code made by Section 13150 of the Revenue Reconciliation Act
22 of 1993 (Public Law 103-66), relating to exclusion from gross
23 income for income from discharge of qualified real property
24 business indebtedness, shall apply to discharges occurring on or
25 after January 1, 1996, in taxable years beginning on or after January
26 1, 1996.

27 (2) If a taxpayer makes an election for federal income tax
28 purposes under Section 108(c) of the Internal Revenue Code,
29 relating to treatment of discharge of qualified real property business
30 indebtedness, a separate election shall not be allowed under
31 paragraph (3) of subdivision (e) of Section 23051.5 and the federal
32 election shall be binding for purposes of this part.

33 (3) If a taxpayer has not made an election for federal income
34 tax purposes under Section 108(c) of the Internal Revenue Code,
35 relating to treatment of discharge of qualified real property business
36 indebtedness, then the taxpayer shall not be allowed to make that
37 election for purposes of this part.

38 (g) The amendments to Section 108 of the Internal Revenue
39 Code made by Section 13226 of the Revenue Reconciliation Act
40 of 1993 (Public Law 103-66), relating to modifications of discharge

1 of indebtedness provisions, shall apply to discharges occurring on
2 or after January 1, 1996, in taxable years beginning on or after
3 January 1, 1996.

4 (h) The amendments made to Section 108(d)(7)(A) of the
5 Internal Revenue Code, relating to certain provisions to be applied
6 at the corporate level by Section 402 of the Job Creation and
7 Worker Assistance Act of 2002 (Public Law 107-147), shall apply
8 to discharges of indebtedness after December 31, 2001, in taxable
9 years ending after that date. This subdivision shall not apply to
10 any discharge of indebtedness made before March 1, 2002, pursuant
11 to a plan of reorganization filed with a bankruptcy court on or
12 before October 11, 2001.

13 (i) Section 108(i) of the Internal Revenue Code, relating to
14 deferral and ratable inclusion of income arising from business
15 indebtedness discharged by the reacquisition of a debt instrument,
16 shall not apply.

17 *SEC. 30. Section 24345.5 is added to the Revenue and Taxation*
18 *Code, to read:*

19 *24345.5. A deduction shall not be allowed for the fee imposed*
20 *by subsection (a) of Section 9008 of the Patient Protection and*
21 *Affordable Care Act (Public Law 111-148).*

22 ~~SEC. 26.~~

23 *SEC. 31. Section 24427 of the Revenue and Taxation Code is*
24 *amended to read:*

25 *24427. Section 267 of the Internal Revenue Code, relating to*
26 *losses, expenses, and interest with respect to transactions between*
27 *related taxpayers, shall apply, except as otherwise provided.*

28 ~~SEC. 27.~~

29 *SEC. 32. Section 24439 of the Revenue and Taxation Code is*
30 *amended to read:*

31 *24439. (a) No deduction shall be allowed to the issuing*
32 *corporation for any premium paid or incurred upon the repurchase*
33 *of a bond, debenture, note, or certificate or other evidence of*
34 *indebtedness which is convertible into the stock of the issuing*
35 *corporation, or a corporation in the same parent-subsidiary*
36 *controlled group, within the meaning of Section 1563(a)(1) of the*
37 *Internal Revenue Code, relating to parent-subsidiary controlled*
38 *group, as the issuing corporation, to the extent the repurchase price*
39 *exceeds an amount equal to the adjusted issue price plus a normal*
40 *call premium on bonds or other evidences of indebtedness which*

1 are not convertible. The preceding sentence shall not apply to the
2 extent that the corporation can demonstrate to the satisfaction of
3 the Franchise Tax Board that such excess is attributable to the cost
4 of borrowing and is not attributable to the conversion feature.

5 (b) For purposes of subdivision (a), the adjusted issue price is
6 the issue price, as defined in Sections 1273(b) and 1274 of the
7 Internal Revenue Code, increased by any amount of discount
8 deducted before repurchase, or, in the case of bonds or other
9 evidences of indebtedness issued after February 28, 1913,
10 decreased by any amount of premium included in gross income
11 before repurchase by the issuing corporation.

12 (c) The provisions of this section shall not apply to a convertible
13 bond or other convertible evidence of indebtedness repurchased
14 pursuant to a binding obligation incurred on or before April 22,
15 1969, to repurchase such bond or other evidence of indebtedness
16 at a specified call premium, but no inference shall be drawn from
17 the fact that this section does not apply to the repurchase of such
18 convertible bond or other convertible evidence of indebtedness.

19 (d) The amendments made to this section by the act adding this
20 subdivision shall apply to repurchases on or after January 1, 2015.

21 ~~SEC. 28.~~

22 *SEC. 33.* Section 24452.1 of the Revenue and Taxation Code
23 is repealed.

24 ~~SEC. 29.~~

25 *SEC. 34.* Section 24454 is added to the Revenue and Taxation
26 Code, to read:

27 24454. Section 304(b)(5)(B) of the Internal Revenue Code,
28 relating to special rule in case of foreign acquiring corporation,
29 shall apply to acquisitions on or after January 1, 2015.

30 ~~SEC. 30.~~

31 *SEC. 35.* Section 24459 is added to the Revenue and Taxation
32 Code, to read:

33 24459. Section 382(n) of the Internal Revenue Code, relating
34 to special rule for certain ownership changes, shall not apply.

35 ~~SEC. 31.~~

36 *SEC. 36.* Section 24870 of the Revenue and Taxation Code is
37 amended to read:

38 24870. Subchapter M of Chapter 1 of Subtitle A of the Internal
39 Revenue Code, relating to regulated investment companies and

1 real estate investment trusts, shall apply, except as otherwise
2 provided in this part.

3 ~~SEC. 32.~~

4 *SEC. 37.* Section 24871 of the Revenue and Taxation Code is
5 amended to read:

6 24871. (a) (1) Section 852(b)(1) of the Internal Revenue Code,
7 relating to imposition of tax on regulated investment companies,
8 shall not apply.

9 (2) Every regulated investment company shall be subject to the
10 taxes imposed under Chapter 2 (commencing with Section 23101)
11 and Chapter 3 (commencing with Section 23501), except that its
12 “net income” shall be equal to its “investment company income,”
13 as defined in subdivision (b).

14 (3) (A) Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code
15 is modified by substituting “\$12,500” for “\$50,000.”

16 (B) Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is
17 modified by substituting the phrase “the rate of tax specified in
18 Section 23151” for the phrase “the highest rate of tax specified in
19 section 11” contained therein.

20 (C) Section 851(d)(2)(C)(iii) of the Internal Revenue Code,
21 relating to administrative provisions, is modified by substituting
22 the phrase “Article 3 of Part 10.2 (commencing with Section
23 19031), a tax imposed by this subparagraph shall be treated as a
24 tax with respect to which the deficiency procedures of such article
25 apply” for the phrase “subtitle F, a tax imposed by this
26 subparagraph shall be treated as an excise tax with respect to which
27 the deficiency procedures of such subtitle apply” contained therein.

28 (D) Section 851(i)(2) of the Internal Revenue Code, relating to
29 imposition of tax on failures, shall not apply.

30 (b) “Investment company income” means investment company
31 taxable income, as defined in Section 852(b)(2) of the Internal
32 Revenue Code, modified as follows:

33 (1) Section 852(b)(2)(A) of the Internal Revenue Code, relating
34 to an exclusion for net capital gain, does not apply.

35 (2) Section 852(b)(2)(B) of the Internal Revenue Code, relating
36 to net operating losses, is modified to deny the deduction allowed
37 under Sections 24416 and 24416.1, in lieu of denying the deduction
38 allowed by Section 172 of the Internal Revenue Code.

39 (3) In lieu of the provision of Section 852(b)(2)(C) of the
40 Internal Revenue Code, relating to special deductions for

1 corporations, no deduction shall be allowed under Sections 24402,
2 24406, 24410, and 25106.

3 (4) The deduction for dividends paid, under Section
4 852(b)(2)(D) of the Internal Revenue Code, is modified to allow
5 capital gain dividends and exempt interest dividends (to the extent
6 that interest is included in gross income under this part) to be
7 included in the computation of the deduction.

8 (c) Section 852(b)(3)(A) of the Internal Revenue Code, relating
9 to imposition of tax, shall not apply.

10 (d) (1) Section 852(b)(5) of the Internal Revenue Code, relating
11 to exempt-interest dividends, is modified by substituting the phrase
12 “that, when held by an individual, the interest therefrom is exempt
13 from taxation by this state” for the phrase “described in section
14 103(a)” contained therein.

15 (2) Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code,
16 relating to exempt interest, is modified by substituting the phrase
17 “on obligations that, if held by an individual, is exempt from
18 taxation by this state, over the amounts disallowed as deductions
19 under subdivision (b) of Section 24360 or Section 24425” for the
20 phrase “excludable from gross income under section 103(a) over
21 the amounts disallowed as deductions under sections 265 and
22 171(a)(2)” contained therein.

23 (3) Section 852(b)(5)(B) of the Internal Revenue Code, relating
24 to treatment of exempt-interest dividends by shareholders, shall
25 not apply.

26 (e) Section 854 of the Internal Revenue Code, relating to
27 limitations applicable to dividends received from regulated
28 investment companies, is modified to refer to Sections 24402,
29 24406, 24410, and 25106, in lieu of Section 243 of the Internal
30 Revenue Code.

31 (f) Section 852(g)(1)(A) of the Internal Revenue Code is
32 modified by substituting the phrase “subdivision (a) of Section
33 17145” for the phrase “the first sentence of subsection (b)(5)”
34 contained therein.

35 ~~SEC. 33.~~

36 *SEC. 38.* Section 24871.1 of the Revenue and Taxation Code
37 is repealed.

38 ~~SEC. 34.~~

39 *SEC. 39.* Section 24990.5 of the Revenue and Taxation Code
40 is amended to read:

1 24990.5. (a) Section 1201 of the Internal Revenue Code,
2 relating to alternative tax for corporations, shall not be applicable.

3 (b) The provisions of Section 1212 of the Internal Revenue
4 Code, relating to capital loss carrybacks and carryovers, are
5 modified as follows:

6 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating
7 to capital loss carrybacks, shall not apply.

8 (2) Section 1212(a)(4) of the Internal Revenue Code, relating
9 to special rules on carrybacks, shall not apply.

10 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,
11 relating to other taxpayers and carryback of losses from Section
12 1256 contracts to offset prior gains from such contracts,
13 respectively, shall not apply.

14 ~~SEC. 35.~~

15 *SEC. 40.* (a) Except as otherwise provided, the provisions of
16 this act shall apply to taxable years beginning on or after January
17 1, 2015.

18 (b) Sections 201 to 221, inclusive, of the Tax Technical
19 Corrections Act of 2014 (Title II of Division A of Public Law
20 113-295), enacted numerous technical corrections and clarifications
21 to provisions of the Internal Revenue Code, including technical
22 corrections and clarifications relating to the American Taxpayer
23 Relief Act of 2012 (Public Law 112-240), the Middle Class Tax
24 Relief and Job Creation Act of 2012 (Public Law 112-96), the
25 FAA Modernization and Reform Act of 2012 (Title IX of Public
26 Law 112-95), the Regulated Investment Company Modernization
27 Act of 2010 (Public Law 111-325), the Tax Relief, Unemployment
28 Insurance Reauthorization, and Job Creation Act of 2010 (Public
29 Law 111-312), the Creating Small Business Jobs Act of 2010 (Title
30 II of Public Law 111-240), the Hiring Incentives to Restore
31 Employment Act (Public Law 111-147), the American Recovery
32 and Reinvestment Tax Act of 2009 (Public Law 111-5), the
33 Economic Stimulus Act of 2008 (Division A of Public Law
34 110-343), the Energy Improvement and Extension Act of 2008
35 (Division B of Public Law 110-343), the Tax Extenders and
36 Alternative Minimum Tax Relief Act of 2008 (Division C of Public
37 Law 110-343), the Housing Assistance Tax Act of 2008 (Division
38 C of Public Law 110-289), the Heroes Earnings Assistance and
39 Relief Tax Act of 2008 (Public Law 110-245), the Tax Technical
40 Corrections Act of 2007 (Public Law 110-172), the Tax Relief and

1 Health Care Act of 2006 (Public Law 109-432), the Safe,
2 Accountable, Flexible, Efficient Transportation Equity Act of
3 2005: A Legacy for Users (Public Law 109-59), the Energy Tax
4 Incentives Act of 2005 (Title XIII of Public Law 109-58), and the
5 American Jobs Creation Act of 2004 (Public Law 108-357), some
6 of which are incorporated by reference into Part 10 (commencing
7 with Section 17001), Part 10.2 (commencing with Section 18401),
8 and Part 11 (commencing with Section 23001) of Division 2 of
9 the Revenue and Taxation Code. Unless otherwise provided, the
10 technical corrections described in the preceding sentence, to the
11 extent that they correct provisions that are incorporated by
12 reference into the Revenue and Taxation Code, are declaratory of
13 existing law and shall be applied in the same manner and for the
14 same periods as specified for federal purposes, or if later, the
15 specified date of incorporation.

16 ~~SEC. 36.~~

17 *SEC. 41.* It is the intent of the Legislature to confirm the
18 validity and ongoing effect of Senate Bill No. 401 of the 2009–10
19 Regular Session.

20 ~~SEC. 37.~~

21 *SEC. 42.* This act provides for a tax levy within the meaning
22 of Article IV of the Constitution and shall go into immediate effect.