

ASSEMBLY BILL

No. 931

Introduced by Assembly Member Irwin

February 26, 2015

An act to amend Sections 17053.73 and 23626 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 931, as introduced, Irwin. Taxation: credit: hiring.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2014, and before January 1, 2021, a credit for hiring qualified full-time employees within specified economic development areas. Existing law defines “qualified full-time employee” to include an individual who is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer.

This bill would, under both laws for taxable years beginning on or after January 1, 2015, revise this definition of a “qualified full-time employee” to include a person who, upon commencement of employment with the qualified taxpayer, is a veteran that separated from service in the Armed Forces of the United States within the 24 months preceding commencement of employment with the qualified taxpayer.

Existing law also allows a credit against tax under both laws for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor’s Office of Business and Economic Development and the

taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law limits the aggregate amount of credits allocated to taxpayers to a specified sum per fiscal year and provides that the amount available for these credits will decrease based in part, on how much credit is allowed under the hiring credit that would be expanded by this bill.

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 17053.73 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17053.73. (a) (1) For each taxable year beginning on or after
- 4 January 1, 2014, and before January 1, 2021, there shall be allowed
- 5 to a qualified taxpayer that hires a qualified full-time employee
- 6 and pays or incurs qualified wages attributable to work performed
- 7 by the qualified full-time employee in a designated census tract
- 8 or economic development area, and that receives a tentative credit
- 9 reservation for that qualified full-time employee, a credit against
- 10 the “net tax,” as defined in Section 17039, in an amount calculated
- 11 under this section.
- 12 (2) The amount of the credit allowable under this section for a
- 13 taxable year shall be equal to the product of the tentative credit
- 14 amount for the taxable year and the applicable percentage for that
- 15 taxable year.
- 16 (3) (A) If a qualified taxpayer relocates to a designated census
- 17 tract or economic development area, the qualified taxpayer shall
- 18 be allowed a credit with respect to qualified wages for each
- 19 qualified full-time employee employed within the new location
- 20 only if the qualified taxpayer provides each employee at the
- 21 previous location or locations a written offer of employment at the

1 new location in the designated census tract or economic
2 development area with comparable compensation.

3 (B) For purposes of this paragraph, “relocates to a designated
4 census tract or economic development area” means an increase in
5 the number of qualified full-time employees, employed by a
6 qualified taxpayer, within a designated census tract or tracts or
7 economic development areas within a 12-month period in which
8 there is a decrease in the number of full-time employees, employed
9 by the qualified taxpayer in this state, but outside of designated
10 census tracts or economic development areas.

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

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

16 (b) For purposes of this section:

17 (1) The “tentative credit amount” for a taxable year shall be
18 equal to the product of the applicable credit percentage for each
19 qualified full-time employee and the qualified wages paid by the
20 qualified taxpayer during the taxable year to that qualified full-time
21 employee.

22 (2) The “applicable percentage” for a taxable year shall be equal
23 to a fraction, the numerator of which is the net increase in the total
24 number of full-time employees employed in this state during the
25 taxable year, determined on an annual full-time equivalent basis,
26 as compared with the total number of full-time employees
27 employed in this state during the base year, determined on the
28 same basis, and the denominator of which shall be the total number
29 of qualified full-time employees employed in this state during the
30 taxable year. The applicable percentage shall not exceed 100
31 percent.

32 (3) The “applicable credit percentage” means the credit
33 percentage for the calendar year during which a qualified full-time
34 employee was first employed by the qualified taxpayer. The
35 applicable credit percentage for all calendar years shall be 35
36 percent.

37 (4) “Base year” means the 2013 taxable year, except in the case
38 of a qualified taxpayer who first hires a qualified full-time
39 employee in a taxable year beginning on or after January 1, 2015,
40 the base year means the taxable year immediately preceding the

1 taxable year in which a qualified full-time employee was first hired
2 by the qualified taxpayer.

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

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

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

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

13 (7) “Designated census tract” means a census tract within the
14 state that is determined by the Department of Finance to have a
15 civilian unemployment rate that is within the top 25 percent of all
16 census tracts within the state and has a poverty rate within the top
17 25 percent of all census tracts within the state, as prescribed in
18 Section 13073.5 of the Government Code.

19 (8) “Economic development area” means either of the following:

20 (A) A former enterprise zone. For purposes of this section,
21 “former enterprise zone” means an enterprise zone designated and
22 in effect as of December 31, 2011, any enterprise zone designated
23 during 2012, and any revision of an enterprise zone prior to June
24 30, 2013, under former Chapter 12.8 (commencing with Section
25 7070) of Division 7 of Title 1 of the Government Code, as in effect
26 on December 31, 2012, excluding any census tract within an
27 enterprise zone that is identified by the Department of Finance
28 pursuant to Section 13073.5 of the Government Code as a census
29 tract within the lowest quartile of census tracts with the lowest
30 civilian unemployment and poverty.

31 (B) A local agency military base recovery area designated as
32 of the effective date of the act adding this subparagraph, in
33 accordance with Section 7114 of the Government Code.

34 (9) “Minimum wage” means the wage established pursuant to
35 Chapter 1 (commencing with Section 1171) of Part 4 of Division
36 2 of the Labor Code.

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

- 1 (i) Performs at least 50 percent of his or her services for the
2 qualified taxpayer during the taxable year in a designated census
3 tract or economic development area.
- 4 (ii) Receives starting wages that are at least 150 percent of the
5 minimum wage.
- 6 (iii) Is hired by the qualified taxpayer on or after January 1,
7 2014.
- 8 (iv) Is hired by the qualified taxpayer after the date the
9 Department of Finance determines that the census tract referred
10 to in clause (i) is a designated census tract or that the census tracts
11 within a former enterprise zone are not census tracts with the lowest
12 civilian unemployment and poverty.
- 13 (v) Satisfies either of the following conditions:
 - 14 (I) Is paid qualified wages by the qualified taxpayer for services
15 not less than an average of 35 hours per week.
 - 16 (II) Is a salaried employee and was paid compensation during
17 the taxable year for full-time employment, within the meaning of
18 Section 515 of the Labor Code, by the qualified taxpayer.
- 19 (vi) Upon commencement of employment with the qualified
20 taxpayer, satisfies any of the following conditions:
 - 21 (I) Was unemployed for the six months immediately preceding
22 employment with the qualified taxpayer. In the case of an
23 individual that completed a program of study at a college,
24 university, or other postsecondary educational institution, received
25 a baccalaureate, postgraduate, or professional degree, and was
26 unemployed for the six months immediately preceding employment
27 with the qualified taxpayer, that individual must have completed
28 that program of study at least 12 months prior to the individual's
29 commencement of employment with the qualified taxpayer.
 - 30 (II) ~~Is~~(ia) *For taxable years beginning on or after January 1,*
31 *2014, and before January 1, 2015, is a veteran who separated from*
32 *service in the Armed Forces of the United States within the 12*
33 *months preceding commencement of employment with the*
34 *qualified taxpayer.*
35 *(ib) For taxable years beginning on or after January 1, 2015,*
36 *is a veteran who separated from service in the Armed Forces of*
37 *the United States within the 24 months preceding commencement*
38 *of employment with the qualified taxpayer.*

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

4 (IV) Is an ex-offender previously convicted of a felony.

5 (V) Is a recipient of either CalWORKs, in accordance with
 6 Article 2 (commencing with Section 11250) of Chapter 2 of Part
 7 3 of Division 9 of the Welfare and Institutions Code, or general
 8 assistance, in accordance with Section 17000.5 of the Welfare and
 9 Institutions Code.

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

14 (11) (A) “Qualified taxpayer” means a person or entity engaged
 15 in a trade or business within a designated census tract or economic
 16 development area that, during the taxable year, pays or incurs
 17 qualified wages.

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

26 (C) “Qualified taxpayers” shall not include any of the following:

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

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

35 (iii) Employers that are primarily engaged in providing food
 36 services, as described in Code 711110, 722511, 722513, 722514,
 37 or 722515 of the North American Industry Classification System
 38 (NAICS) published by the United States Office of Management
 39 and Budget, 2012 edition.

- 1 (iv) Employers that are primarily engaged in services as
2 described in Code 713210, 721120, or 722410 of the North
3 American Industry Classification System (NAICS) published by
4 the United States Office of Management and Budget, 2012 edition.
- 5 (v) (I) An employer that is a sexually oriented business.
6 (II) For purposes of this clause:
7 (aa) “Sexually oriented business” means a nightclub, bar,
8 restaurant, or similar commercial enterprise that provides for an
9 audience of two or more individuals live nude entertainment or
10 live nude performances where the nudity is a function of everyday
11 business operations and where nudity is a planned and intentional
12 part of the entertainment or performance.
- 13 (ab) “Nude” means clothed in a manner that leaves uncovered
14 or visible, through less than fully opaque clothing, any portion of
15 the genitals or, in the case of a female, any portion of the breasts
16 below the top of the areola of the breasts.
- 17 (D) Subparagraph (C) shall not apply to a taxpayer that is a
18 “small business.”
- 19 (12) “Qualified wages” means those wages that meet all of the
20 following requirements:
21 (A) (i) Except as provided in clause (ii), that portion of wages
22 paid or incurred by the qualified taxpayer during the taxable year
23 to each qualified full-time employee that exceeds 150 percent of
24 minimum wage, but does not exceed 350 percent of minimum
25 wage.
26 (ii) (I) In the case of a qualified full-time employee employed
27 in a designated pilot area, that portion of wages paid or incurred
28 by the qualified taxpayer during the taxable year to each qualified
29 full-time employee that exceeds ten dollars (\$10) per hour or an
30 equivalent amount for salaried employees, but does not exceed
31 350 percent of minimum wage. For qualified full-time employees
32 described in the preceding sentence, clause (ii) of subparagraph
33 (A) of paragraph (10) is modified by substituting “ten dollars (\$10)
34 per hour or an equivalent amount for salaried employees” for “150
35 percent of the minimum wage.”
36 (II) For purposes of this clause:
37 (aa) “Designated pilot area” means an area designated as a
38 designated pilot area by the Governor’s Office of Business and
39 Economic Development.

1 (ab) Areas that may be designated as a designated pilot area are
2 limited to areas within a designated census tract or an economic
3 development area with average wages less than the statewide
4 average wages, based on information from the Labor Market
5 Division of the Employment Development Department, and areas
6 within a designated census tract or an economic development area
7 based on high poverty or high unemployment.

8 (ac) The total number of designated pilot areas that may be
9 designated is limited to five, one or more of which must be an area
10 within five or fewer designated census tracts within a single county
11 based on high poverty or high unemployment or an area within an
12 economic development area based on high poverty or high
13 unemployment.

14 (ad) The designation of a designated pilot area shall be
15 applicable for a period of four calendar years, commencing with
16 the first calendar year for which the designation of a designated
17 pilot area is effective. The applicable period of a designated pilot
18 area may be extended, in the sole discretion of the Governor's
19 Office of Business and Economic Development, for an additional
20 period of up to three calendar years. The applicable period, and
21 any extended period, shall not extend beyond December 31, 2020.

22 (III) The designation of an area as a designated pilot area and
23 the extension of the applicable period of a designated pilot area
24 shall be at the sole discretion of the Governor's Office of Business
25 and Economic Development and shall not be subject to
26 administrative appeal or judicial review.

27 (B) Wages paid or incurred during the 60-month period
28 beginning with the first day the qualified full-time employee
29 commences employment with the qualified taxpayer. In the case
30 of any employee who is reemployed, including a regularly
31 occurring seasonal increase, in the trade or business operations of
32 the qualified taxpayer, this reemployment shall not be treated as
33 constituting commencement of employment for purposes of this
34 section.

35 (C) Except as provided in paragraph (3) of subdivision (n),
36 qualified wages shall not include any wages paid or incurred by
37 the qualified taxpayer on or after the date that the Department of
38 Finance's redesignation of designated census tracts is effective,
39 as provided in paragraph (2) of subdivision (g), so that a census
40 tract is no longer a designated census tract.

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

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

8 (B) (i) For purposes of this paragraph, “gross receipts, less
9 returns and allowances reportable to this state,” means the sum of
10 the gross receipts from the production of business income, as
11 defined in subdivision (a) of Section 25120, and the gross receipts
12 from the production of nonbusiness income, as defined in
13 subdivision (d) of Section 25120.

14 (ii) In the case of any trade or business activity conducted by a
15 partnership or an “S” corporation, the limitations set forth in
16 subparagraph (A) shall be applied to the partnership or “S”
17 corporation and to each partner or shareholder.

18 (C) (i) “Small business” shall not include a sexually oriented
19 business.

20 (ii) For purposes of this subparagraph:

21 (I) “Sexually oriented business” means a nightclub, bar,
22 restaurant, or similar commercial enterprise that provides for an
23 audience of two or more individuals live nude entertainment or
24 live nude performances where the nudity is a function of everyday
25 business operations and where nudity is a planned and intentional
26 part of the entertainment or performance.

27 (II) “Nude” means clothed in a manner that leaves uncovered
28 or visible, through less than fully opaque clothing, any portion of
29 the genitals or, in the case of a female, any portion of the breasts
30 below the top of the areola of the breasts.

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

33 (A) Not in receipt of wages subject to withholding under Section
34 13020 of the Unemployment Insurance Code for that period.

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

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

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

3 (1) (A) The net increase in full-time employees shall be
4 determined on an annual full-time equivalent basis by subtracting
5 from the amount determined in subparagraph (C) the amount
6 determined in subparagraph (B).

7 (B) The total number of full-time employees employed in the
8 base year by the taxpayer and by any trade or business acquired
9 by the taxpayer during the current taxable year.

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

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

16 (d) For purposes of this section:

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

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

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

31 (2) To obtain a tentative credit reservation with respect to a
32 qualified full-time employee, the qualified taxpayer shall provide
33 necessary information, as determined by the Franchise Tax Board,
34 including the name, social security number, the start date of
35 employment, the rate of pay of the qualified full-time employee,
36 the qualified taxpayer's gross receipts, less returns and allowances,
37 for the previous taxable year, and whether the qualified full-time
38 employee is a resident of a targeted employment area, as defined
39 in former Section 7072 of the Government Code, as in effect on
40 December 31, 2013.

1 (3) The qualified taxpayer shall provide the Franchise Tax Board
2 an annual certification of employment with respect to each
3 qualified full-time employee hired in a previous taxable year, on
4 or before, the 15th day of the third month of the taxable year. The
5 certification shall include necessary information, as determined
6 by the Franchise Tax Board, including the name, social security
7 number, start date of employment, and rate of pay for each qualified
8 full-time employee employed by the qualified taxpayer.

9 (4) A tentative credit reservation provided to a taxpayer with
10 respect to an employee of that taxpayer shall not constitute a
11 determination by the Franchise Tax Board with respect to any of
12 the requirements of this section regarding a taxpayer's eligibility
13 for the credit authorized by this section.

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

15 (1) Approve a tentative credit reservation with respect to a
16 qualified full-time employee hired during a calendar year.

17 (2) Determine the aggregate tentative reservation amount and
18 the aggregate small business tentative reservation amount for a
19 calendar year.

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

29 (4) Notwithstanding Section 19542, provide as a searchable
30 database on its Internet Web site, for each taxable year beginning
31 on or after January 1, 2014, and before January 1, 2021, the
32 employer names, amounts of tax credit claimed, and number of
33 new jobs created for each taxable year pursuant to this section and
34 Section 23626.

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

39 (2) The redesignation of designated census tracts and lowest
40 civilian unemployment census tracts by the Department of Finance

1 as provided in Section 13073.5 of the Government Code shall be
2 effective, for purposes of this credit, one year after the date the
3 Department of Finance redesignates the designated census tracts.

4 (h) For purposes of this section:

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

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

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

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

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

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

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

1 (A) A termination of employment of a qualified full-time
2 employee who voluntarily leaves the employment of the qualified
3 taxpayer.

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

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

14 (D) A termination of employment of a qualified full-time
15 employee due to a substantial reduction in the trade or business
16 operations of the qualified taxpayer, including reductions due to
17 seasonal employment.

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

22 (F) A termination of employment of a qualified full-time
23 employee, when that employment is considered seasonal
24 employment and the qualified employee is rehired on a seasonal
25 basis.

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

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

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

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

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

4 (k) In the case where the credit allowed by this section exceeds
5 the “net tax,” the excess may be carried over to reduce the “net
6 tax” in the following year, and the succeeding four years if
7 necessary, until the credit is exhausted.

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

16 (m) (1) Upon the effective date of this section, the Department
17 of Finance shall estimate the total dollar amount of credits that
18 will be claimed under this section with respect to each fiscal year
19 from the 2013–14 fiscal year to the 2020– 21 fiscal year, inclusive.

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

30 (n) (1) This section shall remain in effect only until December
31 1, 2024, and as of that date is repealed.

32 (2) Notwithstanding paragraph (1) of subdivision (a), this section
33 shall continue to be operative for taxable years beginning on or
34 after January 1, 2021, but only with respect to qualified full-time
35 employees who commenced employment with a qualified taxpayer
36 in a designated census tract or economic development area in a
37 taxable year beginning before January 1, 2021.

38 (3) This section shall remain operative for any qualified taxpayer
39 with respect to any qualified full-time employee after the
40 designated census tract is no longer designated or an economic

1 development area ceases to be an economic development area, as
2 defined in this section, for the remaining period, if any, of the
3 60-month period after the original date of hiring of an otherwise
4 qualified full-time employee and any wages paid or incurred with
5 respect to those qualified full-time employees after the designated
6 census tract is no longer designated or an economic development
7 area ceases to be an economic development area, as defined in this
8 section, shall be treated as qualified wages under this section,
9 provided the employee satisfies any other requirements of
10 paragraphs (10) and (12) of subdivision (b), as if the designated
11 census tract was still designated and binding or the economic
12 development area was still in existence.

13 SEC. 2. Section 23626 of the Revenue and Taxation Code is
14 amended to read:

15 23626. (a) (1) For each taxable year beginning on or after
16 January 1, 2014, and before January 1, 2021, there shall be allowed
17 to a qualified taxpayer that hires a qualified full-time employee
18 and pays or incurs qualified wages attributable to work performed
19 by the qualified full-time employee in a designated census tract
20 or economic development area, and that receives a tentative credit
21 reservation for that qualified full-time employee, a credit against
22 the “tax,” as defined by Section 23036, in an amount calculated
23 under this section.

24 (2) The amount of the credit allowable under this section for a
25 taxable year shall be equal to the product of the tentative credit
26 amount for the taxable year and the applicable percentage for the
27 taxable year.

28 (3) (A) If a qualified taxpayer relocates to a designated census
29 tract or economic development area, the qualified taxpayer shall
30 be allowed a credit with respect to qualified wages for each
31 qualified full-time employee who is employed within the new
32 location only if the qualified taxpayer provides each employee at
33 the previous location or locations a written offer of employment
34 at the new location in the designated census tract or economic
35 development area with comparable compensation.

36 (B) For purposes of this paragraph, “relocates to a designated
37 census tract or economic development area” means an increase in
38 the number of qualified full-time employees, employed by a
39 qualified taxpayer, within a designated census tract or tracts or
40 economic development areas within a 12-month period in which

1 there is a decrease in the number of full-time employees, employed
2 by the qualified taxpayer in this state, but outside of designated
3 census tracts or economic development areas.

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

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

9 (b) For purposes of this section:

10 (1) The “tentative credit amount” for a taxable year shall be
11 equal to the product of the applicable credit percentage for each
12 qualified full-time employee and the qualified wages paid by the
13 qualified taxpayer during the taxable year to that qualified full-time
14 employee.

15 (2) The “applicable percentage” for a taxable year shall be equal
16 to a fraction, the numerator of which is the net increase in the total
17 number of full-time employees employed in this state during the
18 taxable year, determined on an annual full-time equivalent basis,
19 as compared with the total number of full-time employees
20 employed in this state during the base year, determined on the
21 same basis, and the denominator of which shall be the total number
22 of qualified full-time employees employed in this state during the
23 taxable year. The applicable percentage shall not exceed 100
24 percent.

25 (3) The “applicable credit percentage” means the credit
26 percentage for the calendar year during which a qualified full-time
27 employee was first employed by the qualified taxpayer. The
28 applicable credit percentage for all calendar years shall be 35
29 percent.

30 (4) “Base year” means the 2013 taxable year, or in the case of
31 a qualified taxpayer who first hires a qualified full-time employee
32 in a taxable year beginning on or after January 2015, the taxable
33 year immediately preceding the taxable year in which the qualified
34 full-time employee was hired.

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

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

38 (A) In the case of a full-time employee paid hourly qualified
39 wages, “annual full-time equivalent” means the total number of

1 hours worked for the qualified taxpayer by the employee (not to
2 exceed 2,000 hours per employee) divided by 2,000.

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

6 (7) “Designated census tract” means a census tract within the
7 state that is determined by the Department of Finance to have a
8 civilian unemployment rate that is within the top 25 percent of all
9 census tracts within the state and has a poverty rate within the top
10 25 percent of all census tracts within the state, as prescribed in
11 Section 13073.5 of the Government Code.

12 (8) “Economic development area” means either of the following:

13 (A) A former enterprise zone. For purposes of this section,
14 “former enterprise zone” means an enterprise zone designated and
15 in effect as of December 31, 2011, any enterprise zone designated
16 during 2012, and any revision of an enterprise zone prior to June
17 30, 2013, under former Chapter 12.8 (commencing with Section
18 7070) of Division 7 of Title 1 of the Government Code, as in effect
19 on December 31, 2012, excluding any census tract within an
20 enterprise zone that is identified by the Department of Finance
21 pursuant to Section 13073.5 of the Government Code as a census
22 tract within the lowest quartile of census tracts with the lowest
23 civilian unemployment and poverty.

24 (B) A local agency military base recovery area designated as
25 of the effective date of the act adding this subparagraph, in
26 accordance with Section 7114 of the Government Code.

27 (9) “Minimum wage” means the wage established pursuant to
28 Chapter 1 (commencing with Section 1171) of Part 4 of Division
29 2 of the Labor Code.

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

32 (i) Performs at least 50 percent of his or her services for the
33 qualified taxpayer during the taxable year in a designated census
34 tract or economic development area.

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

37 (iii) Is hired by the qualified taxpayer on or after January 1,
38 2014.

39 (iv) Is hired by the qualified taxpayer after the date the
40 Department of Finance determines that the census tract referred

1 to in clause (i) is a designated census tract or that the census tracts
2 within a former enterprise zone are not census tracts with the lowest
3 civilian unemployment and poverty.

4 (v) Satisfies either of the following conditions:

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

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

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

12 (I) Was unemployed for the six months immediately preceding
13 employment with the qualified taxpayer. In the case of an
14 individual who completed a program of study at a college,
15 university, or other postsecondary educational institution, received
16 a baccalaureate, postgraduate, or professional degree, and was
17 unemployed for the six months immediately preceding employment
18 with the qualified taxpayer, that individual must have completed
19 that program of study at least 12 months prior to the individual's
20 commencement of employment with the qualified taxpayer.

21 (II) ~~Is~~(ia) *For taxable years beginning on or after January 1,*
22 *2014, and before January 1, 2015, is a veteran who separated from*
23 *service in the Armed Forces of the United States within the 12*
24 *months preceding commencement of employment with the*
25 *qualified taxpayer.*

26 *(ib) For taxable years beginning on or after January 1, 2015,*
27 *is a veteran who separated from service in the Armed Forces of*
28 *the United States within the 24 months preceding commencement*
29 *of employment with the qualified taxpayer.*

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

33 (IV) Is an ex-offender previously convicted of a felony.

34 (V) Is a recipient of either CalWORKs, in accordance with
35 Article 2 (commencing with Section 11250) of Chapter 2 of Part
36 3 of Division 9 of the Welfare and Institutions Code, or general
37 assistance, in accordance with Section 17000.5 of the Welfare and
38 Institutions Code.

39 (B) An individual may only be considered a qualified full-time
40 employee for the period of time commencing with the date the

1 individual is first employed by the qualified taxpayer and ending
2 60 months thereafter.

3 (11) (A) “Qualified taxpayer” means a corporation engaged in
4 a trade or business within designated census tract or economic
5 development area that, during the taxable year, pays or incurs
6 qualified wages.

7 (B) In the case of any pass-thru entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section or
10 Section 17053.73 shall be allowed to the pass-thru entity and
11 passed through to the partners and shareholders in accordance with
12 applicable provisions of this part or Part 10 (commencing with
13 Section 17001). For purposes of this subdivision, the term
14 “pass-thru entity” means any partnership or “S” corporation.

15 (C) “Qualified taxpayer” shall not include any of the following:

16 (i) Employers that provide temporary help services, as described
17 in Code 561320 of the North American Industry Classification
18 System (NAICS) published by the United States Office of
19 Management and Budget, 2012 edition.

20 (ii) Employers that provide retail trade services, as described
21 in Sector 44-45 of the North American Industry Classification
22 System (NAICS) published by the United States Office of
23 Management and Budget, 2012 edition.

24 (iii) Employers that are primarily engaged in providing food
25 services, as described in Code 711110, 722511, 722513, 722514,
26 or 722515 of the North American Industry Classification System
27 (NAICS) published by the United States Office of Management
28 and Budget, 2012 edition.

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

33 (v) (I) An employer that is a sexually oriented business.

34 (II) For purposes of this clause:

35 (aa) “Sexually oriented business” means a nightclub, bar,
36 restaurant, or similar commercial enterprise that provides for an
37 audience of two or more individuals live nude entertainment or
38 live nude performances where the nudity is a function of everyday
39 business operations and where nudity is a planned and intentional
40 part of the entertainment or performance.

1 (ab) “Nude” means clothed in a manner that leaves uncovered
2 or visible, through less than fully opaque clothing, any portion of
3 the genitals or, in the case of a female, any portion of the breasts
4 below the top of the areola of the breasts.

5 (D) Subparagraph (C) shall not apply to a taxpayer that is a
6 “small business.”

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

9 (A) (i) Except as provided in clause (ii), that portion of wages
10 paid or incurred by the qualified taxpayer during the taxable year
11 to each qualified full-time employee that exceeds 150 percent of
12 minimum wage, but does not exceed 350 percent of the minimum
13 wage.

14 (ii) (I) In the case of a qualified full-time employee employed
15 in a designated pilot area, that portion of wages paid or incurred
16 by the qualified taxpayer during the taxable year to each qualified
17 full-time employee that exceeds ten dollars (\$10) per hour or an
18 equivalent amount for salaried employees, but does not exceed
19 350 percent of the minimum wage. For qualified full-time
20 employees described in the preceding sentence, clause (ii) of
21 subparagraph (A) of paragraph (10) is modified by substituting
22 “ten dollars (\$10) per hour or an equivalent amount for salaried
23 employees” for “150 percent of the minimum wage.”

24 (II) For purposes of this clause:

25 (aa) “Designated pilot area” means an area designated as a
26 designated pilot area by the Governor’s Office of Business and
27 Economic Development.

28 (ab) Areas that may be designated as a designated pilot area are
29 limited to areas within a designated census tract or an economic
30 development area with average wages less than the statewide
31 average wages, based on information from the Labor Market
32 Division of the Employment Development Department, and areas
33 within a designated census tract or an economic development area
34 based on high poverty or high unemployment.

35 (ac) The total number of designated pilot areas that may be
36 designated is limited to five, one or more of which must be an area
37 within five or fewer designated census tracts within a single county
38 based on high poverty or high unemployment or an area within an
39 economic development area based on high poverty or high
40 unemployment.

1 (ad) The designation of a designated pilot area shall be
2 applicable for a period of four calendar years, commencing with
3 the first calendar year for which the designation of a designated
4 pilot area is effective. The applicable period of a designated pilot
5 area may be extended, in the sole discretion of the Governor's
6 Office of Business and Economic Development, for an additional
7 period of up to three calendar years. The applicable period, and
8 any extended period, shall not extend beyond December 31, 2020.

9 (III) The designation of an area as a designated pilot area and
10 the extension of the applicable period of a designated pilot area
11 shall be at the sole discretion of the Governor's Office of Business
12 and Economic Development and shall not be subject to
13 administrative appeal or judicial review.

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

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

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

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

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

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

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

11 (C) (i) “Small business” shall not include a sexually oriented
12 business.

13 (ii) For purposes of this subparagraph:

14 (I) “Sexually oriented business” means a nightclub, bar,
15 restaurant, or similar commercial enterprise that provides for an
16 audience of two or more individuals live nude entertainment or
17 live nude performances where the nudity is a function of everyday
18 business operations and where nudity is a planned and intentional
19 part of the entertainment or performance.

20 (II) “Nude” means clothed in a manner that leaves uncovered
21 or visible, through less than fully opaque clothing, any portion of
22 the genitals or, in the case of a female, any portion of the breasts
23 below the top of the areola of the breasts.

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

26 (A) Not in receipt of wages subject to withholding under Section
27 13020 of the Unemployment Insurance Code for that period.

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

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

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

36 (1) (A) The net increase in full-time employees shall be
37 determined on an annual full-time equivalent basis by subtracting
38 from the amount determined in subparagraph (C) the amount
39 determined in subparagraph (B).

1 (B) The total number of full-time employees employed in the
2 base year by the taxpayer and by any trade or business acquired
3 by the taxpayer during the current taxable year.

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

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

10 (d) For purposes of this section:

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

14 (2) In determining whether the taxpayer has first commenced
15 doing business in this state during the taxable year, the provisions
16 of subdivision (g) of Section 24416.20, without application of
17 paragraph (7) of that subdivision, shall apply.

18 (e) (1) To be eligible for the credit allowed by this section, a
19 qualified taxpayer shall, upon hiring a qualified full-time employee,
20 request a tentative credit reservation from the Franchise Tax Board
21 within 30 days of complying with the Employment Development
22 Department's new hire reporting requirement as provided in
23 Section 1088.5 of the Unemployment Insurance Code, in the form
24 and manner prescribed by the Franchise Tax Board.

25 (2) To obtain a tentative credit reservation with respect to a
26 qualified full-time employee, the qualified taxpayer shall provide
27 necessary information, as determined by the Franchise Tax Board,
28 including the name, the social security number, the start date of
29 employment, the rate of pay of the qualified full-time employee,
30 the qualified taxpayer's gross receipts, less returns and allowances,
31 for the previous taxable year, and whether the qualified full-time
32 employee is a resident of a targeted employment area, as defined
33 in former Section 7072 of the Government Code, as in effect on
34 December 31, 2013.

35 (3) The qualified taxpayer shall provide the Franchise Tax Board
36 an annual certification of employment with respect to each
37 qualified full-time employee hire in a previous taxable year, on or
38 before the 15th day of the third month of the taxable year. The
39 certification shall include necessary information, as determined
40 by the Franchise Tax Board, including the name, social security

1 number, start date of employment, and rate of pay for each qualified
2 full-time employee employed by the qualified taxpayer.

3 (4) A tentative credit reservation provided to a taxpayer with
4 respect to an employee of that taxpayer shall not constitute a
5 determination by the Franchise Tax Board with respect to any of
6 the requirements of this section regarding a taxpayer’s eligibility
7 for the credit authorized by this section.

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

9 (1) Approve a tentative credit reservation with respect to a
10 qualified full-time employee hired during a calendar year.

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

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

23 (4) Notwithstanding Section 19542, provide as a searchable
24 database on its Internet Web site, for each taxable year beginning
25 on or after January 1, 2014, and before January 1, 2021, the
26 employer names, amounts of tax credit claimed, and number of
27 new jobs created for each taxable year pursuant to this section and
28 Section 17053.73.

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

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

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

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

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

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

11 (D) If a qualified taxpayer acquires the major portion of a trade
12 or business of another taxpayer, hereinafter in this paragraph
13 referred to as the predecessor, or the major portion of a separate
14 unit of a trade or business of a predecessor, then, for purposes of
15 applying this section for any taxable year ending after that
16 acquisition, the employment relationship between a qualified
17 full-time employee and a qualified taxpayer shall not be treated
18 as terminated if the employee continues to be employed in that
19 trade or business.

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

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

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

29 (3) Rules similar to the rules provided in Sections 46(e) and
30 46(h) of the Internal Revenue Code, as in effect on November 4,
31 1990, shall apply to both of the following:

32 (A) An organization to which Section 593 of the Internal
33 Revenue Code applies.

34 (B) A regulated investment company or a real estate investment
35 trust subject to taxation under this part.

36 (i) (1) If the employment of any qualified full-time employee,
37 with respect to whom qualified wages are taken into account under
38 subdivision (a), is terminated by the qualified taxpayer at any time
39 during the first 36 months after commencing employment with
40 the qualified taxpayer, whether or not consecutive, the tax imposed

1 by this part for the taxable year in which that employment is
2 terminated shall be increased by an amount equal to the credit
3 allowed under subdivision (a) for that taxable year and all prior
4 taxable years attributable to qualified wages paid or incurred with
5 respect to that employee.

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

7 (A) A termination of employment of a qualified full-time
8 employee who voluntarily leaves the employment of the qualified
9 taxpayer.

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

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

20 (D) A termination of employment of a qualified full-time
21 employee due to a substantial reduction in the trade or business
22 operations of the qualified taxpayer, including reductions due to
23 seasonal employment.

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

28 (F) A termination of employment of a qualified full-time
29 employee, when that employment is considered seasonal
30 employment and the qualified employee is rehired on a seasonal
31 basis.

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

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

4 (j) In the case where the credit allowed by this section exceeds
5 the “tax,” the excess may be carried over to reduce the “tax” in
6 the following year, and the succeeding four years if necessary,
7 until exhausted.

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

16 (l) (1) Upon the effective date of this section, the Department
17 of Finance shall estimate the total dollar amount of credits that
18 will be claimed under this section with respect to each fiscal year
19 from the 2013–14 fiscal year to the 2020–21 fiscal year, inclusive.

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

30 (m) (1) This section shall remain in effect only until December
31 1, 2024, and as of that date is repealed.

32 (2) Notwithstanding paragraph (1) of subdivision (a), this section
33 shall continue to be operative for taxable years beginning on or
34 after January 1, 2021, but only with respect to qualified full-time
35 employees who commenced employment with a qualified taxpayer
36 in a designated census tract or economic development area in a
37 taxable year beginning before January 1, 2021.

38 (3) This section shall remain operative for any qualified taxpayer
39 with respect to any qualified full-time employee after the
40 designated census tract is no longer designated or an economic

1 development area ceases to be an economic development area, as
2 defined in this section, for the remaining period, if any, of the
3 60-month period after the original date of hiring of an otherwise
4 qualified full-time employee and any wages paid or incurred with
5 respect to those qualified full-time employees after the designated
6 census tract is no longer designated or an economic development
7 area ceases to be an economic development area, as defined in this
8 section, shall be treated as qualified wages under this section,
9 provided the employee satisfies any other requirements of
10 paragraphs (10) and (12) of subdivision (b), as if the designated
11 census tract was still designated and binding or the economic
12 development area was still in existence.

13 SEC. 3. This act provides for a tax levy within the meaning of
14 Article IV of the Constitution and shall go into immediate effect.