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Law Offices of
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June 18, 2013

VIA E-MAIL AND HAND DELIVERY

Ms. Ashley Johansson
Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

RE: 13-0005 "Corporate Tax Break Accountability Act"

Dear Ms. Johansson:

I am requesting that the Attorney General prepare a circulating title and summary for the amended version of the above referenced initiative. I understand that our amended version will be considered a "non-substantive" amendment. Thank you for your consideration of this request.

Very truly yours,

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business financial development corporation created pursuant to this part.

(b) "Financial institution" means banking organizations including national banks and trust companies authorized to conduct business in California and state-chartered commercial banks, trust companies, and savings and loan associations.

(c) "Financial company" means banking organizations including national banks and trust companies, savings and loan associations, state insurance companies, mutual insurance companies, and other banking, lending, retirement, and insurance organizations.

(d) "Expansion Fund" means the California Small Business Expansion Fund.

(e) Unless otherwise defined by the director by regulation, "small business loan" means a loan to a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations, including those businesses organized for agricultural purposes that create or retain employment as a result of the loan. From time to time, the director shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.

(f) "Employment incentive loan" means a loan to a qualified business, as defined in subdivision (h) of former Section 7082 of the Government Code, or to a business

located within an enterprise zone, as defined in subdivision (b) of former Section 7072 of the Government Code.

(g) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on a loan application pursuant to Section 14060.

(h) "Board of directors" means the board of directors of the corporation.

(i) "Board" means the California Small Business Board.

(j) "Agency" means the Business, Transportation and Housing Agency.

(k) "Director" means the person designated to this title by the secretary.

(*l*) "Secretary" means the Secretary of Business, Transportation and Housing Agency.

(m) "Trust fund" means the money from the expansion fund that is held in trust by a financial institution or a financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506 of the Government Code.

(n) "Trust fund account" means an account within the trust fund that is allocated to a particular small business financial development corporation for the purpose of paying loan defaults and claims on bond guarantees for a specific small business financial development corporation.

(o) "Trustee" is the lending institution or financial company selected by the office to hold and invest the trust fund. The agreement between the agency and the trustee shall not be construed to be a deposit of state funds.

SEC. 2. Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 3. Section 7097 of the Government Code is amended to read:

7097. (a) The Department of Housing and Community Development shall rank applicant communities and shall designate the first ranking community whose governing body is applying as a community to be designated as a targeted tax area which meets at least four of the five following criteria:

(1) The average unemployment rate in the applicant community exceeded 7.5 percent in 1995.

(2) The average unemployment rate in the applicant community exceeded 7.5 percent in 1996.

(3) The median family income in the applicant community does not exceed thirty-two thousand seven hundred dollars ($32,700).

(4) The percentage of persons in the applicant community below the poverty level is at least 17.5 percent.

(5) The applicant community ranks in the top quartile, among California counties, in the percentage of population receiving Aid for Families with Dependent Children benefits, based on the Cash Grant Caseload Movement and Expenditures Report, July 1995 to June 1996.

~~(b) For purposes of applying any provision of the Revenue and Taxation Code, any targeted tax area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070).~~

~~(c)~~

(b) Except as provided in subdivision (e), the designation as a targeted tax area pursuant to this section shall be binding for a period of 15 years, commencing January 1, 1998.

~~(d)~~

(c) Only one targeted tax area shall be designated by the department, and a renewed or replacement designation shall not be made after the initial designation expires or is revoked.

~~(e)~~

(d) An audit of the program's operation shall be made by the department pursuant to Section 7076.1, on a periodic basis with the cooperation of the local governing board. If the department determines that the local jurisdiction is not complying with the terms of the memorandum of understanding, the department shall provide written notice of the program deficiencies and the governing body shall be given six months to correct the deficiencies. If the deficiencies are not corrected, the designation shall be revoked.

~~(f)~~

(e) A county and any cities within the county may apply jointly as a community if the combination of the jurisdictions meets the criteria.

SEC. 4. Section 7097.1 of the Government Code is amended to read:

7097.1. (a) The department shall assess each targeted tax area a fee of fifteen dollars ($15) for each application for issuance of a certificate pursuant to subdivision (d) of Section 17053.34 of the Revenue and Taxation Code and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The department shall collect the fee for deposit into the Enterprise Zone Fund, pursuant to former Section 7072.3, for

the costs of administering this chapter. The targeted tax area administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(b) The department shall adopt regulations governing the issuance of certificates pursuant to subdivision (d) of Section 17053.34 and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (c) of Section 11346.1, the regulations shall remain in effect for not more than 360 days unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

SEC. 5. Section 7111 of the Government Code is amended to read:

7111. ~~(a)~~ An eligible area is a military base or former military base which, based upon the determination of the department, fulfills the following:

(1) The base is scheduled for closure or downsizing by a base closure act.

(2) The governing body has approved a reuse plan for the base.

~~(b) A base is ineligible if any portion of the base is included in an enterprise zone established pursuant to Chapter 12.8 (commencing with Section 7070) or an area established pursuant to Chapter 12.9 (commencing with Section 7080).~~

SEC. 6. Section 7114.2 of the Government Code is amended to read:

7114.2. (a) The department shall assess each LAMBRA a fee of fifteen dollars ($15) for each application for issuance of a certificate pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section

23646 of the Revenue and Taxation Code. The department shall collect the fee for deposit into the Enterprise Zone Fund, pursuant to former Section 7072.3, for the costs of administering this chapter. The LAMBRA administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(b) The department shall adopt regulations governing the imposition and collection of fees pursuant to this section and the issuance of certificates pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

SEC. 7. Section 7117 of the Government Code, as added by Section 1 of Chapter 1216 of the Statutes of 1993, is amended to read:

7117. A business located within a local agency military base recovery area shall be eligible for the tax benefits set forth within Sections 17053.45, 17053.46, 17268, ~~17276.2,~~ 23645, 23646, ~~24356.8, and 24416.2~~ and 24356.8 of the Revenue and Taxation Code only if it provides a net increase in jobs in the local agency military base recovery area within the first two years from the business' initial date of operation. If the business fails to meet its obligations under the local agency military base recovery

area plan or the requirements of this act, any tax benefits received under those sections shall be recaptured, as provided in each of those sections.

SEC. 8. Section 54221 of the Government Code is amended to read:

54221. (a) As used in this article, the term "local agency" means every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.

(b) As used in this article, the term "surplus land" means land owned by any local agency, that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange.

(c) As used in this article, the term "open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) As used in this article, the term "persons and families of low or moderate income" means the same as provided under Section 50093 of the Health and Safety Code.

(e) As used in this article, the term "exempt surplus land" means either of the following:

(1) Surplus land that is transferred pursuant to Section 25539.4.

(2) Surplus land that is (A) less than 5,000 square feet in area, (B) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (C) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state

or local agency that is used for park, recreational, open-space, or low- and moderate-income housing purposes ~~and is located neither within an enterprise zone pursuant to Section 7073 nor a designated program area as defined in Section 7082~~. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.

(f) Notwithstanding subdivision (e), the following properties are not considered exempt surplus land and are subject to this article:

(1) Lands within the coastal zone.

(2) Lands within 1,000 yards of a historical unit of the State Parks System.

(3) Lands within 1,000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(4) Lands within the Lake Tahoe region as defined in Section 66905.5.

SEC. 9. Section 54222 of the Government Code is amended to read:

54222. Any local agency disposing of surplus land shall send, prior to disposing of that property, a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall be sent, upon written request, a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and shall include the location and a description of the property. With

respect to any offer to purchase or lease pursuant to this subdivision, priority shall be given to development of the land to provide affordable housing for lower income elderly or disabled persons or households, and other lower income households.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency that may succeed to its powers.

(c) A written offer to sell or lease land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district in whose jurisdiction the land is located.

~~(d) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.~~

~~(e)~~

(d) A written offer to sell or lease for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4 or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of

Chapter 3 of Division 1 of Title 7) shall be sent to any county, city, city and county, community redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

~~(f)~~

(e) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

SEC. 10. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to those activities or uses, shall not include any of the activities described in, and not excepted from, subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities with respect to any products of agriculture, forestry, mining, or manufacture, if these activities have demonstrated job creation or retention potential.

(2) Energy development, production, collection, or conversion from one form of energy to another.

(3) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(4) Commercial ~~uses located within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1, commercial~~ activities within an empowerment zone and enterprise community designated pursuant to Section 1391 of the Internal Revenue Code of 1986, in effect on January 1, 1998, commercial uses located within a recovery zone designated pursuant to Section 1401 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), or any amendments thereto, or other commercial needs.

(5) Processing or manufacturing recycled or reused products and materials by manufacturing facilities.

(6) Business activities with the purpose of creating or producing intangible property.

(b) (1) Residential real property for family unit or other housing activities.

(2) Airport, dock, wharf, or mass commuting activities, or storage or training activities related to any of those activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(3) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (2) or (4) of subdivision (a).

(4) Water furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(5) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1986, as amended, undertaken by those persons, other

than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 11. Section 104663 of the Health and Safety Code is amended to read:

104663. (a) There is hereby established in the State Treasury the California Healthy Food Financing Initiative Fund, which shall be comprised of federal, state, philanthropic, and private funds for the purpose of expanding access to healthy foods in underserved communities.

(b) Moneys in the fund shall be expended upon appropriation by the Legislature, and shall be used, to the extent practicable, to leverage other funding, including, but not limited to, new markets tax credits, federal and foundation grant programs, ~~incentives available to designated enterprise zones,~~ the federal Specialty Crop Block Grant Program, and funding from private sector financial institutions pursuant to the federal Community Reinvestment Act.

SEC. 12. Section 25395.20 of the Health and Safety Code is amended to read:

25395.20. (a) For purposes of this article, the following definitions shall apply:

(1) "Account" means the Cleanup Loans and Environmental Assistance to Neighborhoods Account established pursuant to subdivision (b).

(2) (A) "Brownfield" means property that meets all of the following conditions:

(i) It is located in an urban area.

(ii) It was previously the site of an economic activity that is no longer in operation at that location.

(iii) It has been vacant or has had no occupant engaged in year-round economically productive activities for a period of not less than the 12 months previous to the date of application for a loan pursuant to this article.

(B) "Brownfield" does not include any of the following:

(i) Property listed, or proposed for listing, on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605 (a)(8)(B)).

(ii) Property that is, or was, owned or operated by a department, agency, or instrumentality of the United States.

(iii) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property is a brownfield described in subparagraph (C) of paragraph (6).

(3) "Cleanup and abatement order" means an order issued by a regional board pursuant to Section 13304 of the Water Code.

(4) "Cleanup Loans and Environmental Assistance to Neighborhoods Program" or "CLEAN" means the loan program established by the department pursuant to Section 25395.22, to finance the performance of actions necessary to respond to the release or threatened release of hazardous material on an eligible property.

(5) "Economic activity" means a governmental activity, a commercial, agricultural, industrial, or not-for-profit enterprise, or other economic or business concern.

(6) "Eligible property" means a site that is any of the following:

(A) A brownfield.

(B) An underutilized property that is any of the following:

(i) A property described in clause (v) of subparagraph (D) of paragraph (16).

(ii) A property located ~~in an enterprise zone established pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code),~~ in a project area for which a redevelopment plan has been approved pursuant to Article 4 (commencing with Section 33300) of Chapter 4 of Part 1 of Division ~~24, or in an eligible area, as determined pursuant to paragraph (2) of subdivision (c) of Section 7072 of the Government Code~~ 24.

(iii) A property, the redevelopment of which will result in any of the following:

(I) An increase in the number of full-time jobs that is at least 100 percent greater than the number of jobs provided by the economic activity located on the property before redevelopment occurred.

(II) An increase in property taxes paid to the local government that is at least 100 percent greater than the property taxes paid by the property owner before redevelopment occurred.

(III) Sales tax revenues to the local government that are sufficient to defray the costs of providing municipal services to the property after the redevelopment occurs.

(IV) Housing for very low, low-, or moderate-income households, as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code.

(V) The construction of new or expanded school facilities, public day care centers, parks, or community recreational facilities.

(C) A brownfield or an underutilized property described in clause (ii) of subparagraph (B) that will be the site of a contiguous expansion of an operating industrial or commercial facility owned or operated by one of the following:

(i) A small business.

(ii) A nonprofit corporation formed under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or the Nonprofit Religious Corporation Law (Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code).

(iii) A small business incubator that is undertaking the expansion with the assistance of a grant authorized by Section 15339.3 of the Government Code or a loan guarantee provided pursuant to Section 14090 of the Corporations Code.

(7) "Eligible property" does not include any of the following:

(A) Property listed or proposed for listing on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605 (a)(8)(B)).

(B) Property that is, or was, owned or operated by a department, agency, or instrumentality of the United States.

(C) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property meets the criteria specified in subparagraph (C) of paragraph (6).

(8) (A) "Hazardous material" means a substance or waste that, because of its physical, chemical, or other characteristics, may pose a risk of endangering human health or safety or of degrading the environment. "Hazardous material" includes, but is not limited to, all of the following:

(i) A hazardous substance, as defined in Section 25281 or 25316, including the substances specified in Section 25317.

(ii) A hazardous waste, as defined in Section 25117.

(iii) A waste, as defined in Section 101075, or as defined in Section 13050 of the Water Code.

(B) "Hazardous material" does not include undisturbed naturally occurring hazardous material unless it will adversely affect the reasonable use of a property after response action is completed.

(9) "Implementation costs," for purposes of the expenditure of any funds pursuant to this article, includes, but is not limited to, the costs of overseeing and reviewing preliminary endangerment assessments and response actions that are financed by a loan issued pursuant to this article, including oversight conducted by a regional board pursuant to Section 25395.28.

(10) "Investigating site contamination program" means the loan program established by the department pursuant to Section 25395.21 to conduct a preliminary endangerment assessment of a brownfield or an underutilized urban property.

(11) "Leaking underground fuel tank" has the same meaning as "tank," as defined in Section 25299.24.

(12) "No longer in operation" means an economic activity that is, or previously was, located on a property that is not conducting operations on the property of the type usually associated with the economic activity.

(13) "Project" means any response action, and the planned future development, included in an application for a loan pursuant to Section 25395.22.

(14) "Property" means real property, as defined in Section 658 of the Civil Code.

(15) "Small business" means an independently owned and operated business, that is not dominant in its field of operation, that, together with affiliates, has 100 or

fewer employees, and that has average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years, or a business that is a manufacturer, as defined in Section 14837 of the Government Code, with 100 or fewer employees.

(16) "Underutilized property" means property that meets all of the following conditions:

(A) It is located in an urban area.

(B) An economic activity is conducted on the property.

(C) It is the subject of a proposal for development pursuant to this article.

(D) One of the following applies:

(i) The economic activity on the property is irregular or intermittent in nature and uses the property for productive purposes less than four months in any calendar year.

(ii) The economic activity on the property employs less than 25 percent of the property for productive purposes.

(iii) The structures, infrastructure, and other facilities on the property are antiquated, obsolete, or in such poor repair that they cannot be used for the purposes for which they were originally constructed and require replacement in order to implement the redevelopment proposal.

(iv) The economic activity conducted on the property is a parking facility or an activity that offers a similar marginal economic service and the facility or activity will be replaced when the property is redeveloped.

(v) The property is adjacent to one or more brownfields or underutilized properties that are the subject of a project under this article and its inclusion in the

project is necessary in order to ensure that the redevelopment of the brownfield or brownfields or underutilized property or underutilized properties occurs.

(E) An underutilized property does not include any of the following:

(i) Property listed or proposed for listing on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605 (a)(8)(B)).

(ii) Property that is, or was, owned or operated by a department, agency, or instrumentality of the United States.

(iii) Property that will be the site of a contiguous expansion or improvement of an operating industrial or commercial facility, unless the property is an underutilized property described in subparagraph (C) of paragraph (6).

(17) "Regional board" means a California regional water quality control board.

(18) "State board" means the State Water Resources Control Board.

(19) "Urban area" means either of the following:

(A) The central portion of a city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile.

(B) An urbanized area as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code.

(b) The Cleanup Loans and Environmental Assistance to Neighborhoods Account is hereby established in the General Fund to provide low-interest loans to qualified applicants for the purpose of funding preliminary endangerment assessments and response actions at brownfields and underutilized properties located in the state pursuant to this article, and for any other purpose determined by the department to stimulate the

redevelopment of brownfields and underutilized properties, if the department determines that the redevelopment will result in the overall improvement of the community in which the property is located and will provide a reasonable economic or social benefit, in accordance with subdivision (c). All of the following moneys shall be deposited in the account:

(1) Funds appropriated by the Legislature for the purposes of this article.

(2) Notwithstanding Section 16475 of the Government Code, any interest earned upon money deposited into the account.

(3) Proceeds from loan repayments.

(4) Proceeds from the sale of property pursuant to this article that is the subject of foreclosure or its equivalent, as defined in subdivision (f) of Section 25548.1, and proceeds from the enforcement of any other security interest.

(c) (1) Except as provided in paragraph (2), notwithstanding Section 13340 of the Government Code, the money in the account is continuously appropriated without regard to fiscal years to the department for the purpose of providing loans pursuant to Sections 25395.21 and 25395.22 and for the purpose of providing subsidies for environmental insurance pursuant to Article 8.7 (commencing with Section 25395.40), the California Financial Assurance and Insurance for Redevelopment Program.

(2) The money in the account may be expended by the department, a regional board, the state board, and the agency for the implementation and administration of this article and for implementation and administration of the California Financial Assurance and Insurance for Redevelopment Program (Article 7 (commencing with

Section 25395.40)), only upon appropriation by the Legislature in the annual Budget Act or in another measure.

SEC. 13. Section 44559.1 of the Health and Safety Code is amended to read:

44559.1. As used in this article, unless the context requires otherwise, all of the following terms have the following meanings:

(a) "Authority" means the California Pollution Control Financing Authority.

(b) "California Capital Access Fund" means a fund created within the authority to be used for purposes of the program.

(c) "Executive director" means the Executive Director of the California Pollution Control Financing Authority.

(d) (1) "Financial institution" means a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(2) (A) "Financial institution" also includes a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20)

of Chapter I of Title 13 of the Code of Federal Regulations, and a small business financial development corporation, as defined in Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, or microbusiness lender, as defined in Section 13997.2 of the Government Code, that meets standards that shall be established by the authority. For loans where all or part of the fees and matching contributions are paid by an entity participating in the program pursuant to subdivision (e) of Section 44559.2, "financial institution" also includes financial lenders, as defined in Section 22009 of the Financial Code, making commercial loans, as defined in Section 22502 of the Financial Code.

(B) A financial institution described in this paragraph shall be domiciled or have its principal office in the State of California.

(3) "Financial institution" also includes an insured depository institution, insured credit union, or community development financial institution, as these terms are defined in Section 4702 of Title 12 of the United States Code.

(e) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) "Participating financial institution" means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) "Program" means the Capital Access Loan Program created pursuant to this article.

(i) "Qualified business" means a small business concern that meets both of the following criteria, regardless of whether the small business concern has operations that affect the environment:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state.

(2) It has its primary business location within the boundaries of the state.

(j) (1) "Qualified loan" means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.

(2) "Qualified loan" does not include any of the following:

(A) A loan for the construction or purchase of residential housing.

(B) A loan to finance passive real estate ownership.

(C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) "Severely affected community" means ~~any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code),~~ any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended,

and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(*l*) "Small Business Assistance Fund" means a fund created within the authority pursuant to Section 44548.

(m) "Small business concern" has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.

SEC. 14. Section 42021 of the Public Resources Code is repealed.

~~42021. Nothing in this chapter prohibits an applicant from seeking designation of an enterprise zone and receiving economic incentives as defined in Section 7073 of the Government Code.~~

SEC. 15. Section 740.4 of the Public Utilities Code is amended to read:

740.4. (a) The commission shall authorize public utilities to engage in programs to encourage economic development.

(b) Reasonable expenses for economic development programs, as specified in this section, shall be allowed, to the extent of ratepayer benefit, when setting rates to be charged by public utilities electing to initiate these programs.

(c) Economic development activities may include, but not be limited to, the following:

(1) Community marketing and development.

(2) Technical assistance to support technology transfer.

(3) Market research.

(4) Site inventories.

(5) Industrial and commercial expansion and relocation assistance.

(6) Business retention and recruitment.

(7) Management assistance.

(d) This section shall not be interpreted to permit the funding of economic development activities that benefit any affiliated companies or parent holding companies beyond that which is authorized by law as of January 1, 1992.

(e) (1) This section does not authorize the commission to establish discriminatory rates for the purpose of attracting or benefiting specific industries or business entities, except that incentives may be provided for the benefit of industries or business entities whose facilities are located within the boundaries of ~~enterprise zones,~~ economic incentive areas, recycling market development zones, or federal rural enterprise communities in accordance with the provisions of Chapter 12.8 (commencing with Section 7070) and Article 1 (commencing with Section 7080) of Chapter 12.9 of Division 7 of Title 1 of the Government Code, and Article 2 (commencing with Section 42145) of Chapter 3 of Part 3 of the Public Resources Code.

(2) The commission may apply the incentives authorized by this subdivision that benefit industries or business entities whose facilities are located within the boundaries of ~~economic enterprise zones or~~ incentive areas to attract a federal Department of Defense Finance and Accounting Service Center at the existing site of Norton Air Force Base in San Bernardino County. This paragraph shall become inoperative if the federal Department of Defense Finance and Accounting Service Center is not located upon the premises known as Norton Air Force Base in San Bernardino County and shall also become inoperative on February 1, 1994, if that facility has not been awarded to that site before that date.

~~(f) The commission may provide incentives pursuant to subdivision (e) to industries or business entities whose facilities are located within the boundaries of an enterprise zone that engage in activities in connection with the conversion of Fort Ord to other uses.~~

(f)(g) The commission may authorize rate discounts to industries or business entities whose facilities are located or will be located within the boundaries of ~~enterprise zones,~~ recycling market development ~~zones,~~ zones or economic incentive areas pursuant to paragraph (1) of subdivision (e). These discounts may be applied in either of the following ways:

(1) Utilities may apply reduced monthly rates to qualifying customers' monthly utility bills.

(2) Utilities may, at the election of qualifying customers, assign the discounts to a private or public entity that returns consideration of like value to those customers, provided the customers agree to maintain their facilities in ~~an enterprise zone,~~ a recycling market development zone, or an economic incentive area for a minimum of five years from the date of commencement of the discount.

(g)(h) It is the intent of the Legislature that the Public Utilities Commission, in implementing this chapter, shall allow rate recovery of expenses and rate discounts supporting economic development programs within the geographic area served by any public utility to the extent the utility incurring or proposing to incur those expenses and rate discounts demonstrates that the ratepayers of the public utility will derive a benefit from those programs. Further, it is the intent of the Legislature that expenses for economic development programs incurred prior to the effective date of this chapter,

which have not been previously authorized to be recovered in rates, shall not be subject to rate recovery.

SEC. 16. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions, except for those that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.

(6) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(7) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits:

(A) The credit allowed by Section 17052.2 (relating to teacher retention tax credit).

(B) The credit allowed by former Section 17052.4 (relating to solar energy).

(C) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on January 1, 1987).

(D) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on December 1, 1994).

(E) The credit allowed by Section 17052.12 (relating to research expenses).

(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).

(G) The credit allowed by former Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).

(H) The credit allowed by Section 17052.25 (relating to the adoption costs credit).

(I) The credit allowed by Section 17053.5 (relating to the renter's credit).

(J) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit).

(K) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by former Section 17053.11 (relating to program area hiring credit).

(M) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).

(N) The credit allowed by Section 17053.33 (relating to targeted tax area sales or use tax credit).

(O) The credit allowed by Section 17053.34 (relating to targeted tax area hiring credit).

(P) The credit allowed by Section 17053.49 (relating to qualified property).

(Q) The credit allowed by former Section 17053.70 (relating to enterprise zone sales or use tax credit).

(R) The credit allowed by former Section 17053.74 (relating to enterprise zone hiring credit).

(S) The credit allowed by Section 17054 (relating to credits for personal exemption).

(T) The credit allowed by Section 17054.5 (relating to the credits for a qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(U) The credit allowed by Section 17054.7 (relating to the credit for a senior head of household).

(V) The credit allowed by former Section 17057 (relating to clinical testing expenses).

(W) The credit allowed by Section 17058 (relating to low-income housing).

(X) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(Y) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(Z) The credit allowed by Section 19002 (relating to tax withholding).

(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than husband and wife) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit shall be allocated among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

(g) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity shall be limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "net tax," as defined in subdivision (a), for the taxable year shall be limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 17062), determined by including income attributable to the disregarded business entity that

generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to that disregarded business entity. No credit shall be allowed if the taxpayer's regular tax (as defined in Section 17062), determined by including the income attributable to the disregarded business entity, is less than the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (c) and (d).

(h) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-through entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-through entity" means any partnership or S corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision shall apply to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 17. Section 17049 of the Revenue and Taxation Code is amended to read:

17049. (a) If an item of income was included in the gross income of an individual for a preceding taxable year or years because it appeared that the individual had an unrestricted right to that item, a deduction is allowable for the taxable year based on the repayment of the item by the individual during the taxable year, and the amount of that deduction exceeds three thousand dollars ($3,000), then the tax imposed by this part for the taxable year on that individual shall be the lesser of the following:

(1) The tax for the taxable year computed with that deduction.

(2) An amount equal to (A) the tax for the taxable year computed without that deduction, minus (B) the decrease in tax under this part for the preceding taxable year or years which would result solely from the exclusion of the item or portion thereof from the gross income required to be shown on the California return of that individual for the preceding taxable year or years.

(b) If the decrease in tax determined under subparagraph (B) of paragraph (2) of subdivision (a) for the preceding taxable year or years exceeds the tax imposed for the taxable year, computed without the deduction, that excess shall be considered to be a payment of tax on the last day prescribed for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for the taxable year.

(c) Subdivision (a) does not apply to any deduction allowable with respect to an item which was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer, or other property of a kind which would properly have been included in the inventory of the taxpayer if on hand at the close of the prior taxable

year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his or her trade or business.

(d) If the tax imposed by this part for the taxable year is the amount determined under paragraph (2) of subdivision (a), then the deduction referred to in subdivision (a) shall not be taken into account for any purpose of this part, or Part 10.2 (commencing with Section 18401), other than this section.

(e) For purposes of determining whether paragraph (1) or paragraph (2) of subdivision (a) applies, in any case where the exclusion referred to in subparagraph (B) of paragraph (2) of subdivision (a) results in a net operating loss or capital loss for the prior taxable year, or years, that loss shall, for purposes of computing the decrease in tax for the prior taxable year, or years, under subparagraph (B) of paragraph (2) of subdivision (a), be carried over to the same extent and in the same manner as is provided under Section ~~17276~~, 17276.1, ~~17276.2,~~ 17276.4, 17276.5, or 17276.7, 17276.20, or Section 1212 of the Internal Revenue Code, as applicable for California purposes, except that no carryover beyond the taxable year shall be taken into account.

(f) For purposes of this part, the net operating loss or capital loss described in subdivision (e) shall, after the application of paragraph (1) or (2) of subdivision (a) for the taxable year, be taken into account under Section ~~17276,~~ 17276.1, ~~17276.2,~~ 17276.4, 17276.5, or 17276.7, 17276.20, or Section 1212 of the Internal Revenue Code, as applicable for California purposes, for taxable years after the taxable year to the same extent and in the same manner as either of the following:

(A) A net operating loss sustained for the taxable year, if paragraph (1) of subdivision (a) applied.

(B) A net operating loss or capital loss sustained for the prior taxable year, or years, if paragraph (2) of subdivision (a) applied.

(g) Regulations promulgated by the Secretary of the Treasury under Section 1341 of the Internal Revenue Code shall apply, except to the extent that those regulations conflict with this section, provisions of this part, or with regulations promulgated by the Franchise Tax Board.

SEC. 18. Section 17053.47 of the Revenue and Taxation Code is repealed.

~~17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. 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 qualified taxpayer during the taxable year to qualified disadvantaged individuals 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.~~

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

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

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

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

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

~~(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:~~

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

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

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

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

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

~~(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, 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) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.~~

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

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

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

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

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

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

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

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

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

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

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

~~all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.~~

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

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

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

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

~~(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections~~

~~1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.~~

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

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

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

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

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

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

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

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

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

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

~~(c) In the case of an estate or trust, both of the following apply:~~

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

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

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

~~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 (g) or (h).~~

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

~~(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "net 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 shall be 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 that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of~~

~~Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).~~

~~(3) 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 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 of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.~~

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

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

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

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

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

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

SEC. 19. Section 17053.70 of the Revenue and Taxation Code is repealed.

~~17053.70. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property.~~

~~(b) For purposes of this section:~~

~~(1) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone.~~

~~(2) "Qualified property" means:~~

~~(A) Any of the following:~~

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

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

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

~~(I) Air pollution control mechanisms.~~

~~(II) Water pollution control mechanisms.~~

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

~~(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.~~

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

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

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

~~(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.~~

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

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

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

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

~~(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with~~

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

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

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

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

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

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

SEC. 20. Section 17053.74 of the Revenue and Taxation Code is repealed.

~~17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) 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.~~

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

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

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

~~(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

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

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

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

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

~~(iv) Is any of the following:~~

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

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

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

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

~~(aa) 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.~~

~~(bb) 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.~~

~~(ee) 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.~~

~~(dd) 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.~~

~~(ee) 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.~~

~~(ff) 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.~~

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

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

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

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

~~(aa) Federal Supplemental Security Income benefits.~~

~~(bb) Aid to Families with Dependent Children.~~

~~(cc) CalFresh benefits.~~

~~(dd) State and local general assistance.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net~~

~~increase in both the number of seasonal employees and the hours of seasonal employment.~~

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

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

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

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

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

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

~~(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17, and 17053.46 claimed for the same employee.~~

~~The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.~~

~~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 (i) or (j).~~

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

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

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

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

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

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

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

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

SEC. 21. Section 17053.75 of the Revenue and Taxation Code is repealed.

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

~~(b) For purposes of this section:~~

~~(1) "Qualified employee" means a taxpayer who meets both of the following:~~

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

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

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

~~(B) "Qualified wages" does not include any compensation received from the federal government or this state or any political subdivision of this state.~~

~~(C) "Qualified wages" does not include any wages received on or after the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

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

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

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

Repeal

SEC. 22. Section 17053.80 of the Revenue and Taxation Code, as added by Section 3 of Chapter 10 of the Third Extraordinary Session of the Statutes of 2009~~, is amended to read:~~

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

(b) For purposes of this section:

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

(2) "Qualified full-time employee" means:

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

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

(3) A "qualified employee" shall not include any of the following:

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

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

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

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

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

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

(5) "Qualified wages" means wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(6) "Annual full-time equivalent" means either of the following:

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

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

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

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

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

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

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

(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding seven years if necessary, until the credit is exhausted.

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

(f) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

(i) This section shall remain in effect only until December 1 of the calendar year after the year of the cut-off date, and as of that December 1 is repealed.

SEC. 23. Section 17053.80 of the Revenue and Taxation Code, as added by Section 3 of Chapter 17 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

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

(b) For purposes of this section:

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

(2) "Qualified full-time employee" means:

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

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

(3) A "qualified employee" shall not include any of the following:

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

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

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

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

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

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

(5) "Qualified wages" means wages subject to Division 6 (commencing with on 13000) of the Unemployment Insurance Code.

(6) "Annual full-time equivalent" means either of the following:

(A) In the case of a full-time employee paid hourly qualified wages, "annual he equivalent" means the total number of hours worked for the taxpayer by the ee (not to exceed 2,000 hours per employee) divided by 2,000.

3) In the case of a salaried full-time employee, "annual full-time equivalent" he total number of weeks worked for the taxpayer by the employee divided by

) The net increase in qualified full-time employees of a qualified employer letermined as provided by this subdivision:

(A) The net increase in qualified full-time employees shall be determined on a full-time equivalent basis by subtracting from the amount determined in sraph (C) the amount determined in subparagraph (B).

The total number of qualified full-time employees employed in the preceding tar by the taxpayer and by any trade or business acquired by the taxpayer du current taxable year.

he total number of full-time employees employed in the current taxable yea taxpayer and by any trade or business acquired during the current taxable yea

r taxpayers who first commence doing business in this state during the taxa the number of full-time employees for the immediately preceding prior taxab shall be zero.

(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding seven years if necessary, until the credit is exhausted.

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

(f) For purposes of this section:

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

(2) In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the provisions of subdivision (f) of Section 17276.20 ~~17276~~ without application of paragraph (7) of that subdivision, shall apply.

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

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

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

(3) (A) The determinations of the Franchise Tax Board with respect to the cut-off date, the date a return is received, and whether a return has been timely filed for

purposes of this subdivision may not be reviewed in any administrative or judicial proceeding

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

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

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

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

(i) This section shall remain in effect only until December 1 of the calendar year after the year of the cut-off date, and as of that December 1 is repealed.

SEC. 24. Section 17235 of the Revenue and Taxation Code is repealed.

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

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

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

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

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

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

SEC. 25. Section 17260 of the Revenue and Taxation Code is amended to read:

17260. (a) No deduction, other than depreciation, shall be allowed for expenditures for tertiary injectants as provided by Section 193 of the Internal Revenue Code.

(b) Section 263(a) of the Internal Revenue Code shall not apply to expenditures for which a deduction is allowed under Section 17266 ~~or 17267.2~~.

SEC. 26. Section 17267.2 of the Revenue and Taxation Code is repealed.

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

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

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

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

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

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

~~(d) (1) For purposes of this section, "Section 17267.2 property" means any recovery property that is:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

	~~The applicable amount is:~~
~~Taxable year of designation~~	~~$100,000~~
~~1st taxable year thereafter~~	~~100,000~~
~~2nd taxable year thereafter~~	~~75,000~~
~~3rd taxable year thereafter~~	~~75,000~~
~~Each taxable year thereafter~~	~~50,000~~

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

SEC. 27. Section 17276.1 of the Revenue and Taxation Code is amended to read:

17276.1. (a) A qualified taxpayer, as defined in Section ~~17276.2,~~ 17276.4, 17276.5, 17276.6, or 17276.7, may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by Section 17276, with the following exceptions:

(1) Subdivision (a) of Section ~~17276~~ 17276.20, relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of Section ~~17276~~ 17276.20, relating to the 50-percent reduction of losses, shall not be applicable.

(b) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), the provisions of Section ~~17276.2,~~ 17276.4, 17276.5, 17276.6, or 17276.7, as appropriate, shall be applicable.

~~(c) Any carryover of a net operating loss sustained by a qualified taxpayer, as defined in subdivision (a) or (b) of Section 17276.2 as that section read immediately prior to January 1, 1997, shall, if previously elected, continue to be a deduction, as provided in subdivision (a), applied as if the provisions of subdivision (a) or (b) of Section 17276.2, as that section read prior to January 1, 1997, still applied.~~

SEC. 28. Section 17276.2 of the Revenue and Taxation Code is repealed.

~~17276.2. (a) The term "qualified taxpayer" as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division~~

~~7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:~~

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

~~(2) For purposes of this subdivision:~~

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

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

~~(ii) "The enterprise zone" shall be substituted for "this state."~~

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

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

~~(i) 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 clause:~~

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

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

~~(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed~~

~~to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.~~

~~(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

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

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

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

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

SEC. 29. Section 17276.20 of the Revenue and Taxation Code is amended to read:

17276.20. Except as provided in Sections 17276.1, ~~17276.2,~~ 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that

taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest losses, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 taxable years" except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any taxable year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity)

that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division

of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States

Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, ~~17276.2,~~ 17276.4, 17276.5, 17276.6, and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance

of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 30. Section 17276.21 of the Revenue and Taxation Code is amended to read:

17276.21. (a) Notwithstanding Sections 17276, 17276.1, ~~17276.2,~~ 17276.4, 17276.5, 17276.6, 17276.7, and 17276.20 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013.

(d) The provisions of this section shall not apply to the following taxpayers:

(1) For any taxable year beginning on or after January 1, 2008, and before January 1, 2010, this section shall not apply to a taxpayer with net business income of less than five hundred thousand dollars ($500,000) for the taxable year. For purposes of this paragraph, business income means:

(A) Income from a trade or business, whether conducted by the taxpayer or by a passthrough entity owned directly or indirectly by the taxpayer. For purposes of this paragraph, the term "passthrough entity" means a partnership or an "S" corporation.

(B) Income from rental activity.

(C) Income attributable to a farming business.

(2) For any taxable year beginning on or after January 1, 2010, and before January 1, 2012, this section shall not apply to a taxpayer with modified adjusted gross income of less than three hundred thousand dollars ($300,000) for the taxable year. For purposes of this paragraph, "modified adjusted gross income" means the amount described in paragraph (2) of subdivision (h) of Section 17024.5, determined without regard to the

deduction allowed under Section 172 of the Internal Revenue Code, relating to net operating loss deduction.

SEC. 31. Section 17276.22 of the Revenue and Taxation Code is amended to read:

17276.22. Notwithstanding Section 17276.1, ~~17276.2,~~ 17276.4, 17276.5, 17276.6, or 17276.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2013, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 32. Section 17276.3 of the Revenue and Taxation Code is amended to read:

17276.3. (a) Notwithstanding Sections 17276, 17276.1, ~~17276.2,~~ 17276.4, 17276.5, 17276.6, and 17276.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2002, and before January 1, 2003.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2002.

SEC. 33. Section 17276.4 of the Revenue and Taxation Code is amended to read:

17276.4. (a) The term "qualified taxpayer" as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's business activities within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) prior to the Los Angeles Revitalization Zone expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified as follows:

(A) Loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The Los Angeles Revitalization Zone" shall be substituted for "this state."

(3) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance with subdivision (c).

(4) If a loss carryover is allowable pursuant to this section for any taxable year after the Los Angeles Revitalization Zone designation has expired, the Los Angeles Revitalization Zone shall be deemed to remain in existence for purposes of computing the limitation set forth in paragraph (2) and allowing a net operating loss deduction.

(5) Attributable income shall be that portion of the taxpayer's California source business income which is apportioned to the Los Angeles Revitalization Zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the Los Angeles Revitalization Zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(A) Business income shall be apportioned to the Los Angeles Revitalization Zone by multiplying 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 2.

(B) 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 Los Angeles Revitalization Zone during the taxable year and the denominator of which

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

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Los Angeles Revitalization Zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(6) "Los Angeles Revitalization Zone expiration date" means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(b) This section shall be inoperative on the first day of the taxable year beginning on or after the determination date, and each taxable year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code. However, if the taxpayer has any unused loss amount as of the date this section becomes inoperative, that unused loss amount may continue to be carried forward as provided in this section.

(c) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year

the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under this section and either Section ~~17276.2, 17276.5,~~ 17276.5 or 17276.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 17276, the amount of the loss determined under this section or Section ~~17276.2, 17276.5,~~ 17276.5 or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 17276.1.

(f) This section shall cease to be operative on December 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this section.

SEC. 34. Section 17276.5 of the Revenue and Taxation Code is amended to read:

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

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall

be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

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

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

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

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

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

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

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

(4) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's business activities within a LAMBRA prior to the LAMBRA expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

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

(B) "The LAMBRA" shall be substituted for "this state."

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

(6) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business

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

(A) Business income shall be apportioned to a LAMBRA by multiplying 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 clause:

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

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

(B) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing the limitation specified in paragraph (5) and allowing a net operating loss deduction.

(7) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

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

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

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

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

SEC. 35. Section 17276.7 of the Revenue and Taxation Code is amended to read:

17276.7. (a) The term "qualified taxpayer" as used in Section 17276.1 includes a person or entity that conducts a farming business that is directly affected by Pierce's

disease and its vectors. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year, and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a farming business is affected by Pierce's disease and its vectors shall be a net operating loss carryover to each of the nine taxable years following the taxable year of loss, until used.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer's farming business activities affected by Pierce's disease and its vectors. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) A loss shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total loss from the farming business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The area affected by Pierce's disease and its vectors" shall be substituted for "this state."

(B) A net operating loss carryover computed under this section shall be allowed as a deduction only with respect to the taxpayer's farming business income attributable to the area affected by Pierce's disease and its vectors.

(C) Attributable income is that portion of the taxpayer's California source farming business income that is apportioned to the area affected by Pierce's disease and its vectors. For that purpose, that taxpayer's farming business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That farming business income shall be further apportioned to the area affected by Pierce's disease and its vectors in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(i) Farming business income shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total California farming 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:

(I) 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 area affected by Pierce's disease and its vectors during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the area affected by Pierce's disease and its vectors during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after Pierce's disease and its vectors have occurred, the area affected by Pierce's disease

and its vectors shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

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

(c) If a taxpayer is eligible to compute its net operating loss under this section and either Section ~~17276.2,~~ 17276.4, 17276.5, or 17276.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section ~~17276.2,~~ 17276.4, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) (1) A qualified taxpayer may utilize the net operating loss carryover allowed by this section only if the Department of Food and Agriculture confirms that the taxpayer's farming business was affected by Pierce's disease and its vectors during the year for which the qualified taxpayer seeks a deduction under this section.

(2) To make the determination required by this subdivision, the Department of Food and Agriculture shall utilize the definitions in Title 3 of the California Code of Regulations, relating to Pierce's disease and its vectors.

(3) The Franchise Tax Board shall develop a management agreement with the cooperation of the Department of Food and Agriculture to establish procedures by which the Franchise Tax Board secures the information. This subdivision shall not be construed to require the Department of Food and Agriculture to confirm more than the fact that the taxpayer's farming business was affected by Pierce's disease and its vectors during the year for which the qualified taxpayer seeks a deduction.

(f) This section applies to net operating losses attributable to taxable years beginning on or after January 1, 2001, and before January 1, 2003.

SEC. 36. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Section 23802.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" also includes all of the following:

(1) The tax on limited partnerships, imposed under Section 17935, the tax on limited liability companies, imposed under Section 17941, and the tax on registered

limited liability partnerships and foreign limited liability partnerships imposed under Section 17948.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits are allowed against the "tax" in the following order:

(1) Credits that do not contain carryover provisions.

(2) Credits that, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years, except for those credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits that are allowed to reduce the "tax" below the tentative minimum tax, as defined by Section 23455.

(5) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following applies:

(1) No credit may reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits:

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by former Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by former Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by former Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by former Section 23612.2 (relating to enterprise zone sales or use tax credit).

(I) The credit allowed by former Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(J) The credit allowed by former Section 23622 (relating to enterprise zone hiring credit).

(K) The credit allowed by former Section 23622.7 (relating to enterprise zone hiring credit).

(L) The credit allowed by former Section 23623 (relating to program area hiring credit).

(M) The credit allowed by former Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(N) The credit allowed by former Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(O) The credit allowed by Section 23633 (relating to targeted tax area sales or use tax credit).

(P) The credit allowed by Section 23634 (relating to targeted tax area hiring credit).

(Q) The credit allowed by Section 23649 (relating to qualified property).

(2) No credit against the tax may reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) is allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative is allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer is eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(h) Unless otherwise provided, in the case of an S corporation, any credit allowed by this part is computed at the S corporation level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit applies to the S corporation and to each shareholder.

(i) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and

any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity is limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "tax," as defined in subdivision (a), for the taxable year is limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 23455), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to that disregarded business entity. No credit is allowed if the taxpayer's regular tax (as defined in Section 23455), determined by including the income attributable to the disregarded business entity is less than the taxpayer's regular tax (as defined in Section 23455), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (d), (e), and (f).

(j) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-through entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer

in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-through entity" means any partnership or S corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 37. Section 23612.2 of the Revenue and Taxation Code is repealed.

~~23612.2. (a) There shall be allowed as a credit against the "tax" (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer's purchase of qualified property.~~

~~(b) For purposes of this section:~~

~~(1) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone.~~

~~(2) "Qualified property" means:~~

~~(A) Any of the following:~~

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

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

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

~~(I) Air pollution control mechanisms.~~

~~(II) Water pollution control mechanisms.~~

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

~~(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.~~

~~(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed twenty million dollars ($20,000,000).~~

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

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

~~(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.~~

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

~~(d) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit which exceeds the "tax" may be~~

~~carried over and added to the credit, if any, in the following year, and succeeding years if necessary, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.~~

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

~~(f) (1) The amount of credit otherwise allowed under this section and Section 23622.7, 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 taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.~~

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

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

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

SEC. 38. Section 23622.7 of the Revenue and Taxation Code is repealed.

~~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.~~

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

~~(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all~~

~~provisions of this section applied as if the enterprise zone designation were still in existence and binding.~~

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

~~(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

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

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

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

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

~~(iv) Is any of the following:~~

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

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

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

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

~~(aa) 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.~~

~~(bb) 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.~~

~~(cc) 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.~~

~~(dd) 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.~~

~~(ee) 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.~~

~~(ff) 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.~~

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

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

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

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

~~(aa) Federal Supplemental Security Income benefits.~~

~~(bb) Aid to Families with Dependent Children.~~

~~(cc) CalFresh benefits.~~

~~(dd) State and local general assistance.~~

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

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

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

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

~~(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted~~

~~group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar~~

~~day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~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 (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 succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.~~

~~(j) (1) The amount of the credit otherwise allowed under this section and Section 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 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 years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).~~

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

SEC. 39. Section 23622.8 of the Revenue and Taxation Code is repealed.

~~23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified~~

~~taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. 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 qualified taxpayer during the taxable year to qualified disadvantaged individuals 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.~~

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

~~(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the manufacturing enhancement area expiration date. However,~~

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

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

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

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

~~(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:~~

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

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

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

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

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

~~(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, 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) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.~~

~~(6) "Qualified taxpayer" means any corporation engaged in a trade or business within a manufacturing enhancement area designated pursuant to former Section 7073.8 of the Government Code and that meets all of the following requirements:~~

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

~~(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the manufacturing enhancement area is composed of individuals who,~~

~~at the time of hire, are residents of the county in which the manufacturing enhancement area is located.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.~~

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

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

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

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

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

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

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

~~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 succeeding years, 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 of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.~~

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

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

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

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

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

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

Repeal

SEC. 40. Section 23623 of the Revenue and Taxation Code, as added by Section 8 of Chapter 10 of the Third Extraordinary Session of the Statutes of 2009~~, is amended to read:~~ .

23623. (a) For each taxable year beginning on or after January 1, 2009, there shall be allowed as a credit against the "tax," as defined in Section 23036, three thousand dollars ($3,000) for each net increase in qualified full-time employees, as specified in subdivision (c), hired during the taxable year by a qualified employer.

(b) For purposes of this section:

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

(2) "Qualified full-time employee" means:

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

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

(3) A "qualified employee" shall not include any of the following:

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

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

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

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

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

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

(5) "Qualified wages" means wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(6) "Annual full-time equivalent" means either of the following:

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

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

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

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

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

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

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

(d) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding seven years if necessary, until the credit is exhausted.

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

(f) For purposes of this section:

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

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

(g) (1) (A) Credit under this section and Section 17053.80 shall be allowed only for credits claimed on timely filed original returns received by the Franchise Tax Board on or before the cut-off date established by the Franchise Tax Board.

(B) For purposes of this paragraph, the cut-off date shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely filed original returns claiming credits under this section and Section 17053.80 that cumulatively total four hundred million dollars ($400,000,000) for all taxable years.

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

(3) (A) The determinations of the Franchise Tax Board with respect to the cut-off date, the date a return is received, and whether a return has been timely filed for

purposes of this subdivision may not be reviewed in any administrative or judicial proceeding.

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

(4) The Franchise Tax Board shall periodically provide notice on its Web site with respect to the amount of credit under this section and Section 17053.80 claimed on timely filed original returns received by the Franchise Tax Board.

(h) (1) The Franchise Tax Board may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the limitation on total credits allowable under this section and Section 17053.80 and guidelines necessary to avoid the application of paragraph (2) of subdivision (f) through split-ups, shell corporations, partnerships, tiered ownership structures, or otherwise.

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

(i) This section shall remain in effect only until December 1 of the calendar year after the year of the cut-off date, and as of that December 1 is repealed.

SEC. 41. Section 23623 of the Revenue and Taxation Code, as added by Section 8 of Chapter 17 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

23623. (a) For each taxable year beginning on or after January 1, 2009, there shall be allowed as a credit against the "tax," as defined in Section 23036, three thousand dollars ($3,000) for each net increase in qualified full-time employees, as specified in subdivision (c), hired during the taxable year by a qualified employer.

(b) For purposes of this section:

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

(2) "Qualified full-time employee" means:

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

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

(3) A "qualified employee" shall not include any of the following:

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

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

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

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

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

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

(5) "Qualified wages" means wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(6) "Annual full-time equivalent" means either of the following:

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

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

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

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

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

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

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

(d) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding seven years if necessary, until the credit is exhausted.

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

(f) For purposes of this section:

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

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

(g) (1) (A) Credit under this section and Section 17053.80 shall be allowed only for credits claimed on timely filed original returns received by the Franchise Tax Board on or before the cut-off date established by the Franchise Tax Board.

(B) For purposes of this paragraph, the cut-off date shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely filed original returns claiming credits under this section and Section 17053.80 that cumulatively total four hundred million dollars ($400,000,000) for all taxable years.

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

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

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

(4) The Franchise Tax Board shall periodically provide notice on its Web site with respect to the amount of credit under this section and Section 17053.80 claimed on timely filed original returns received by the Franchise Tax Board.

(h) (1) The Franchise Tax Board may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the limitation on total credits allowable under this section and Section 17053.80 and guidelines necessary to avoid the application of paragraph (2) of subdivision (f) through split-ups, shell corporations, partnerships, tiered ownership structures, or otherwise.

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

(i) This section shall remain in effect only until December 1 of the calendar year after the year of the cut-off date, and as of that December 1 is repealed.

SEC. 42. Section 24345 of the Revenue and Taxation Code is amended to read:

24345. A deduction shall be allowed for taxes or licenses paid or accrued during the taxable year, except:

(a) Taxes paid to the state under this part.

(b) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of any of the following:

(1) The Government of the United States or any foreign country.

(2) Any state, territory, county, school district, municipality, or other taxing subdivision of any state or territory.

(c) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Nor does this exclude the allowance of any irrigation or other water district taxes or assessments which are levied for the payment of the principal of any improvement or other bonds for which a general assessment on all lands within the district is levied as distinguished from a special assessment levied on part of the area within the district.

(d) Federal stamp taxes (not described in subdivision (b) or (c)); but this subdivision shall not prevent such taxes from being deducted under Section 24343 (relating to trade or business expenses).

(e) State and local general sales or use taxes. However, there shall be allowed as a deduction, state and local sales or use taxes which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in Section 212 of the Internal Revenue Code (relating to expenses for production of income). Notwithstanding the preceding sentence, any sales or use tax ~~(except where a tax credit is claimed under Section 23612.2) which~~ that is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.

(f) For purposes of subdivision (b), "taxes on or according to or measure by income" shall include any taxes imposed on a dividend that is eliminated from the income of the recipient under Section 25106.

SEC. 43. Repeal Section 24356.7 of the Revenue and Taxation Code ~~is amended to read:~~ .

24356.7. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.7 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.7 property in service.

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

(A) Specify the items of Section 24356.7 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

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

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

(c) (1) For purposes of this section, "Section 24356.7 property" means any recovery property that is:

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

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

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

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

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Sections 24427 through 24429. However, in applying Sections 24428 and 24429 for purposes of this section, subdivision (d) of Section 24429 shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants.

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group.

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

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

(4) This section shall not apply to any property for which the taxpayer could not make a federal election under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b) of this section, both of the following apply:

(A) All members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the members of the affiliated group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" means "affiliated group" as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a bank or corporation that conducts a trade or business within an enterprise zone designated pursuant to former Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.7 property. However, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed the following

applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer's trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

SEC. 44. Section 24384.5 of the Revenue and Taxation Code is repealed.

~~24384.5. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness of a person or entity engaged in a trade or business located in an enterprise zone.~~

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

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

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

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

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

SEC. 45. Section 24416.1 of the Revenue and Taxation Code is amended to read:

24416.1. (a) A qualified taxpayer, as defined in Section ~~24416.2,~~ 24416.4, 24416.5, 24416.6, or 24416.7, may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by Section 24416, in computing net income under Section 24341, with the following exceptions to Section 24416:

(1) Subdivision (a) of Section 24416, relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of Section 24416, relating to the 50-percent reduction of losses, shall not be applicable.

(3) The provisions of subparagraphs (B) and (C) of Section 172 (b) (1) of the Internal Revenue Code shall not apply. To the extent applicable to California law, net operating losses attributable to entities with losses described by Section 172(b)(1)(J) shall be applied in accordance with Section 172(b)(1)(A) and (B) of the Internal Revenue Code.

(b) Corporations whose income is subject to the provisions of Section 25101 or 25101.15 shall make the computations required by Section 25108.

(c) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which

the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), Section ~~24416.2,~~ 24416.4, 24416.5, 24416.6, or 24416.7, as appropriate, shall be applicable.

~~(d) Any carryover of a net operating loss sustained by a qualified taxpayer, as defined in subdivision (a) or (b) of Section 24416.2 as that section read immediately prior to January 1, 1997, shall, if previously elected, continue to be a deduction, as provided in subdivision (a), applied as if the provisions of subdivision (a) or (b) of Section 24416.2, as that section read prior to January 1, 1997, still applied.~~

SEC. 46. Section 24416.2 of the Revenue and Taxation Code is repealed.

~~24416.2. (a) The term "qualified taxpayer" as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:~~

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

~~(2) For purposes of this subdivision:~~

~~(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's business activities within the enterprise zone (as defined in Chapter 12.8 (commencing~~

~~with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this subdivision as follows:~~

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

~~(ii) "The enterprise zone" shall be substituted for "this state."~~

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

~~(C) Attributable income is 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 subdivision as follows:~~

~~(i) 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 clause:~~

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

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

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

~~(D) "Enterprise zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

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

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

~~(c) If a taxpayer is eligible to qualify under this section and either Section 24416.4, 24416.5, or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.~~

~~(d) Notwithstanding Section 24416, the amount of the loss determined under this section, or Section 24416.4, 24416.5, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.~~

SEC. 47. Section 24416.20 of the Revenue and Taxation Code is amended to read:

24416.20. Except as provided in Sections 24416.1, ~~24416.2,~~ 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any

subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as

both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest losses, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(e) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 years" except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any income year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S" corporation, paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity)

that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division

of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has

not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 48. Section 24416.21 of the Revenue and Taxation Code is amended to read:

24416.21. (a) Notwithstanding Sections 24416, 24416.1, ~~24416.2,~~ 24416.4, 24416.5, 24416.6, 24416.7, and 24416.20 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013.

(d) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2008, and before January 1, 2010, pursuant to subdivision (a) shall not apply to a taxpayer with income subject to tax under this part of less than five hundred thousand dollars ($500,000) for the taxable year.

(e) (1) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2010, and before January 1, 2012, pursuant to subdivision (a) shall not apply to a taxpayer with preapportioned income of less than three hundred thousand dollars ($300,000) for the taxable year.

(2) For purposes of this subdivision, "preapportioned income" means net income after state adjustments, before the application of the apportionment and allocation provisions of this part.

(3) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section

25101.15, the amount prescribed in paragraph (1) shall apply to the aggregate amount of preapportioned income for all members included in a combined report.

(f) Notwithstanding subdivision (a), this section shall not apply to a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain on sale during a taxable year ending prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code. An amended tax return claiming net operating loss deductions allowed pursuant to this subdivision shall be treated as a timely filed original return.

(g) The Legislature finds and declares that the addition of subdivision (f) to this section by the act adding this subdivision fulfills a statewide public purpose by providing necessary tax relief for a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain or sale during a taxable year prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code, in order to ensure that these taxpayers are not permanently denied the net operating loss deduction.

SEC. 49. Section 24416.22 of the Revenue and Taxation Code is amended to read:

24416.22. Notwithstanding Section 24416.1, ~~24416.2,~~ 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net operating loss attributable to a taxable year

beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2013, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 50. Section 24416.3 of the Revenue and Taxation Code is amended to read:

24416.3. (a) Notwithstanding Sections 24416, 24416.1, ~~24416.2,~~ 24416.4, 24416.5, 24416.6, and 24416.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2002, and before January 1, 2003.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2002.

SEC. 51. Section 24416.4 of the Revenue and Taxation Code is amended to read:

24416.4. (a) The term "qualified taxpayer" as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(3) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's business activities within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) prior to the Los Angeles Revitalization Zone expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified as follows:

(A) The loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The Los Angeles Revitalization Zone" shall be substituted for "this state."

(4) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance with subdivision (c).

(5) If a loss carryover is allowable pursuant to this section for any taxable year after the Los Angeles Revitalization Zone designation has expired, the Los Angeles Revitalization Zone shall be deemed to remain in existence for purposes of computing the limitation set forth in paragraph (2) and allowing a net operating loss deduction.

(6) Attributable income shall be that portion of the taxpayer's California source business income which is apportioned to the Los Angeles Revitalization 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 Los Angeles Revitalization Zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

(A) Business income shall be apportioned to the Los Angeles Revitalization Zone by multiplying 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 2.

(B) 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 Los Angeles Revitalization Zone during the taxable year and the denominator of which

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

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Los Angeles Revitalization Zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(7) "Los Angeles Revitalization Zone expiration date" means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(b) This section shall be inoperative on the first day of the taxable year beginning on or after the determination date, and each taxable year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code. However, if the taxpayer has any unused loss amount as of the date this section becomes inoperative, that unused loss amount may continue to be carried forward as provided in this section.

(c) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year

the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under this section and either Section ~~24416.2, 24416.5,~~ 24416.5 or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 24416, the amount of the loss determined under this section or Section ~~24416.2, 24416.5,~~ 24416.5 or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

(f) This section shall cease to be operative on December 1, 1998. However, any unused net operating loss may continue to be carried over to following years as provided in this section.

SEC. 52. Section 24416.5 of the Revenue and Taxation Code is amended to read:

24416.5. (a) For each taxable year beginning on or after January 1, 1995, the term "qualified taxpayer" as used in Section 24416.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or

business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

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

(4) "Taxpayer" means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph, all of the following shall apply:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero.

The deduction shall be allowed only if the taxpayer has a net increase in jobs in the state, and if one or more full-time employees are employed within the LAMBRA.

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

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

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

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

(5) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's business activities within a LAMBRA prior to the LAMBRA expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

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

(B) "The LAMBRA" shall be substituted for "this state."

(6) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to a LAMBRA.

(7) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. 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 LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

(A) Business income shall be apportioned to a LAMBRA by multiplying 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 clause:

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

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

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

in existence for purposes of computing the limitation specified in subparagraph (D) and allowing a net operating loss deduction.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

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

(c) If a taxpayer is eligible to qualify under this section and either Section ~~24416.2, 24416.4,~~ 24416.4 or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section ~~24416.2, 24416.4,~~ 24416.4 or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

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

SEC. 53. Section 24416.6 of the Revenue and Taxation Code is amended to read:

24416.6. (a) For each taxable year beginning on or after January 1, 1998, the term "qualified taxpayer" as used in Section 24416.1 includes a corporation that meets both of the following:

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

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level.

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

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

(2) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the qualified taxpayer's business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code) prior to the targeted tax area expiration date. That attributable loss shall be determined

in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

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

(B) "The targeted tax area" shall be substituted for "this state."

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

(4) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the targeted tax 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 targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:

(A) Business income shall be apportioned to the targeted tax 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 purposes of this clause:

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

targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

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

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

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

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

(d) If a taxpayer is eligible to qualify under this section and either Section ~~24416.2, 24416.4,~~ 24416.4 or 24416.5 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 24416, the amount of the loss determined under this section or Section ~~24416.2, 24416.4,~~ 24416.4 or 24416.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

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

SEC. 54. Section 24416.7 of the Revenue and Taxation Code is amended to read:

24416.7. (a) The term "qualified taxpayer" as used in Section 24416.1 includes a corporation that conducts a farming business that is directly affected by Pierce's disease and its vectors. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year, and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a farming business is affected by Pierce's disease and its vectors shall be a net operating loss carryover to each of the nine taxable years following the taxable year of loss, until used.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer's farming business activities affected by Pierce's disease and its vectors. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) A loss shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total loss from the farming business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The area affected by Pierce's disease and its vectors" shall be substituted for "this state."

(B) A net operating loss carryover computed under this section shall be allowed as a deduction only with respect to the taxpayer's farming business income attributable to the area affected by Pierce's disease and its vectors.

(C) Attributable income is that portion of the taxpayer's California source farming business income that is apportioned to the area affected by Pierce's disease and its vectors. For that purpose, that taxpayer's farming business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That farming business income shall be further apportioned to the area affected by Pierce's disease and its vectors in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(i) Farming business income shall be apportioned to the area affected by Pierce's disease and its vectors by multiplying the total California farming 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:

(I) 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

area affected by Pierce's disease and its vectors during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the area affected by Pierce's disease and its vectors during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(ii) If a loss carryover is allowable pursuant to this section for any taxable year after Pierce's disease and its vectors occurred, the area affected by Pierce's disease and its vectors shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

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

(c) If a taxpayer is eligible to compute its net operating loss under this section and either Section ~~24416.2,~~ 24416.4, 24416.5, or 24416.6 as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section ~~24416.2,~~ 24416.4, 24416.5, or 24416.6 shall be the only net

operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) (1) A qualified taxpayer may utilize the net operating loss carryover allowed by this section only if the Department of Food and Agriculture determines that Pierce's disease and its vectors caused the net operating loss for which the qualified taxpayer seeks a deduction under this section.

(2) To make the determination required by this subdivision, the Department of Food and Agriculture shall utilize the definitions in Title 3 of the California Code of Regulations, relating to Pierce's disease and its vectors.

(3) The Department of Food and Agriculture may prescribe regulations necessary to implement this subdivision.

(f) This section applies to net operating losses attributable to taxable years beginning on or after January 1, 2001, and before January 1, 2003.

SEC. 55. Section 24916 of the Revenue and Taxation Code is amended to read:

24916. Proper adjustment with regard to the property shall in all cases be made as follows:

(a) For expenditures, receipts, losses, or other items properly chargeable to capital account. However, no adjustment shall be made for any of the following:

(1) Sales or use tax paid or incurred in connection with the acquisition of property for which a tax credit is claimed pursuant to former Section 23612.2.

(2) Taxes or other carrying charges described in Section 24426, or for expenditures described in Sections 24364 and 24369 for which deductions have been taken in determining net income for the taxable year or any prior taxable year.

(b) For exhaustion, wear and tear, obsolescence, amortization, and depletion:

(1) In the case of corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this part, except that no deduction shall be made for amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value and amounts in excess of the adjustments required by Section 113(b)(1)(B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932.

(2) In the case of a taxpayer subject to the tax imposed by Chapter 3 (commencing with Section 23501), to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allowable) under the provisions of this part.

(3) If a taxpayer has not claimed an amortization deduction for an emergency facility, the adjustment under paragraph (1) shall be made only to the extent ordinarily provided under Sections 24349 and 24372.

(c) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable

in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(d) (1) In the case of corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), in the case of any bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to Section 24360 with respect thereto.

(2) In the case of taxpayers subject to the tax imposed by Chapter 3 (commencing with Section 23501), in the case of any bond, as defined in Section 24363, the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 24360, and in the case of any other bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to subdivision (a) of Section 24360 (or the amount applied to reduce interest payments under paragraph (2) of subdivision (a) of Section 24363.5) with respect thereto.

(3) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 24273, and to the extent of any deficiency on that loan with respect to which the taxpayer has been relieved from liability.

(e) For amounts allowed as deductions as deferred expenses under Section 616(b) of the Internal Revenue Code, relating to certain expenditures in the development of mines, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the taxable year and prior years.

(f) For amounts allowable as deductions as deferred expenses under Section 617(a) of the Internal Revenue Code, relating to certain exploration expenditures, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the taxable year and prior years.

(g) For amounts allowed as deductions as deferred expenses under subdivision (a) of Section 24366, relating to research and experimental expenditures, and resulting in a reduction of the corporation's taxes under this part, but not less than the amounts allowable under that section for the taxable year and prior years.

(h) For amounts allowed as deductions under Sections 24356.2, 24356.3, and 24356.4.

(i) (1) To the extent provided in Section 179A(e)(6)(A) of the Internal Revenue Code, relating to basis reduction for clean-fuel vehicles and certain refueling property.

(2) This subdivision shall apply to property placed in service after June 30, 1993, without regard to taxable year.

(j) In the case of property the acquisition of which resulted under Section 1044 of the Internal Revenue Code, relating to rollover of publicly traded securities gain into specialized small business investment companies, in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in Section 1044(d) of the Internal Revenue Code, relating to basis adjustments.

SEC. 56. Section 10200 of the Unemployment Insurance Code is amended to read:

10200. The Legislature finds and declares the following:

(a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive workforce, and in developing the skills of frontline workers. For purposes of this section, "frontline worker" means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

(1) Foster creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and other industries that are threatened by out-of-state and global competition, including, but not limited to, those industries in which targeted training resources for California's small and medium-sized business suppliers will increase the state's competitiveness to secure federal, private sector, and other nonstate funds. In addition, provide for retraining contracts in companies that make a monetary or in-kind contribution to the funded training enhancements.

(2) Encourage industry-based investment in human resources development that promotes the competitiveness of California industry through productivity and product quality enhancements.

(3) Result in secure jobs for those who successfully complete training. All training shall be customized to the specific requirements of one or more employers or a discrete industry and shall include general skills that trainees can use in the future.

(4) Supplement, rather than displace, funds available through existing programs conducted by employers and government-funded training programs, such as the

Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), the Carl D. Perkins Vocational Education Act (P.L. 98-524), CalWORKs (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), ~~the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code),~~ and the McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), the California Community Colleges Economic Development Program, or apportionment funds allocated to the community colleges; regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

(b) The Employment Training Panel, in funding projects that meet the requirements of subdivision (a), shall give funding priority to those projects that best meet the following goals:

(1) Result in the growth of the California economy by stimulating exports from the state and the production of goods and services that would otherwise be imported from outside the state.

(2) Train new employees of firms locating or expanding in the state that provide high-skilled, high-wage jobs and are committed to an ongoing investment in the training of frontline workers.

(3) Develop workers with skills that prepare them for the challenges of a high performance workplace of the future.

(4) Train workers who have been displaced, have received notification of impending layoff, or are subject to displacement, because of a plant closure, workforce reduction, changes in technology, or significantly increasing levels of international and out-of-state competition.

(5) Are jointly developed by business management and worker representatives.

(6) Develop career ladders for workers.

(7) Promote the retention and expansion of the state's manufacturing workforce.

(c) The program established through this chapter is to be coordinated with all existing employment training programs and economic development programs, including, but not limited to, programs such as the Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.), the California Community Colleges, the regional occupational programs, vocational education programs, joint labor-management training programs, and related programs under the Employment Development Department and the Business, Transportation and Housing Agency.

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