An act to add Part 38 (commencing with Section 64200) to Division 4 of Title 2 of the Education Code, and to amend Sections 17053.74 and 23622.7 of, and to add Sections 6902.6, 17057.6 and 23610.6 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

SB 974, as amended, Steinberg. Income and corporations tax: hiring and career credits.

(1) The Personal Income Tax Law and The Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill, in accordance with legislative findings contained in this bill and for taxable calendar years beginning on or after January 1, 2011, would, for a qualified taxpayer, as defined, business entity, as described, that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that allocated by the State Department of Education.

This bill would, for taxable years beginning on or after January 1, 2011, in lieu of these credits authorized under the Personal Income Tax Law and the Corporation Tax Law, allow a credit against qualified state sales and use taxes, as provided. This bill would impose specified duties
on the State Department of Education, the Franchise Tax Board, and the State Board of Equalization, in administering the credits.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, subject to specific criteria. Qualified employees includes, for purposes of the credit, an ex-offender, as defined. Existing law requires a taxpayer to obtain, from specified agencies, a certification providing that a qualified employee meets the requirements of the credit.

This bill would, for taxable years beginning on or after January 1, 2011, revise the definition of “qualified employee” for this purpose, by providing that an ex-offender includes an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony or misdemeanor punishable by incarceration but placed on probation without a finding of guilt, with specified exclusions. This bill would also, for taxable years beginning on or after January 1, 2011, revise the definition of “qualified employee” by removing, as an element of eligibility as a qualified employee, residency in a targeted employment or targeted tax area. Additionally, this bill would require taxpayers to apply for, and obtain, the certification of a qualified employee within 24 days of the date of hire of the qualified employee. This bill would also make technical, nonsubstantive changes to remove obsolete references in the credit provisions.

This bill would take effect immediately as a tax levy.


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

SECTION 1. Part 38 (commencing with Section 64200) is added to Division 4 of Title 2 of the Education Code, to read:

PART 38. CAREER PATHWAYS INVESTMENT CREDIT

64200. (a) The Legislature finds and declares the following:

1 (1) The deep economic recession that has gripped California requires a timely response and strategic investments to educate
and prepare the workforce that will help fuel the next stage of the
state’s economic growth.

(2) The swift recovery of the California economy faces an
obstacle in the high numbers of young people dropping out of the
state’s middle and high schools. Longitudinal data show that fewer
than 70 percent of 9th graders in California graduate from high
school in four years. According to the State Department of
Education, some 85,000 middle and high school pupils are
abandoning secondary schools annually.

(3) If the dropout crisis is left unchecked, demographic trends
suggest that the rate of future dropouts will increase. The Public
Policy Institute of California predicts there will be twice as many
high school dropouts in California in 2025 as there will be jobs to
support them.

(4) According to a 2007 study by the California Dropout
Research Project, each cohort of dropouts costs California more
than $46 billion in total economic losses over the lifetimes of those
dropouts.

(5) The fastest growing occupations in the coming years are
expected to be those that require scientific, technical, engineering,
or math (STEM) skills, such as jobs in biotechnology, digital media
arts, green technology, or computer-related and health-related
fields.

(6) A 2006 poll of at-risk California 9th and 10th graders by
Peter D. Hart Research Associates found that 6 in 10 pupils were
not motivated to succeed in school. Of those pupils, more than 90
percent said they would be more engaged in their education if
classes helped them acquire skills and knowledge relevant to future
careers.

(7) Comprehensive programs that link challenging academics
with demanding career and technical education create engaging
pathways to further education, advanced training, and productive
jobs in high opportunity careers. They keep students on track to a
diploma, postsecondary credentials, and lasting career success.

(8) New research from the Public Policy Institute of California
suggests that the state’s enterprise zone tax credit program has not
significantly increased job creation or the employment of
hard-to-hire individuals, as was intended.

(9) Two aspects of the enterprise zone program that have
produced an especially poor return on investment, Targeted
Employment Areas (TEA) and retroactive vouchering, should be phased out in favor of fiscal incentives that enhance workforce development for the jobs of the future and that have a beneficial impact on high school graduation rates.

(b) It is the intent of the Legislature to do the following:
(1) Evaluate the state’s tax expenditure investments as rigorously as it evaluates the state’s spending programs.
(2) Establish fiscal incentives, such as tax credits, that encourage California businesses and industry to enter into partnerships with schools that strengthen middle and high school education statewide. These partnerships will connect pupils and teachers to real-world experience that provides sustained exposure to applied academics, skill development, work-related education, and potential future employers. This experience will keep students engaged and on track to graduation, further education, and productive careers.

(c) As used in this section, “tax expenditure” means a credit, deduction, exclusion, exemption, or any other tax benefit as may be provided for by state law.

64201. For purposes of this part:
(a) “Applicant” means a business entity that enters into a contract or memorandum of understanding with a local educational agency to provide career technical education that connects pupils to real-world experience and provides sustained exposure to applied academics, skill development, work-related education, and potential future employment.
(b) “Authentic application” means an activity in the context of a middle or high school course that requires pupils to work actively with academic and technical concepts, facts, and skills in a realistic, work-like setting that emulates the problems encountered by professionals and the practices they use to address them. These applications typically require pupils to examine a task from a variety of perspectives, to draw upon multiple resources, to collaborate with others, and to accomplish tasks and projects by working in teams rather than individually.
(c) “Career pathways investment credit ceiling” means the aggregate amount of credit that may be annually allocated by the department pursuant to Sections 17057.6 and 23610.6 of the Revenue and Taxation Code.
(e) “Department” means the State Department of Education.

(d) “Middle school or high school programs that create career pathways” means programs that support the following:

1. High school pathways programs delivered through high schools, regional occupation centers or programs, California Partnership Academies and other career academies, alternative education programs, including continuation schools and programs administered by county offices of education, or adult education programs, that integrate academic and technical learning to prepare pupils for both postsecondary education and careers in high-growth or high-need sectors of the economy. These programs include core academic courses emphasizing authentic applications, sequences or clusters of three or more courses that align with the State Board of Education approved career technical education standards and frameworks that also integrate key academic concepts and skills, work-based learning opportunities, additional services like counseling or supplementary instruction in reading, writing, and mathematics. These programs shall also:

   (A) Focus on occupations requiring comprehensive skills in leading to high entry-level wages or the possibility of significant wage increases after a demonstrated amount of time at the position.

   (B) Provide prerequisite courses that are needed to enter apprenticeships, or postsecondary vocation certificate or degree programs. Where possible, sequenced courses shall be articulated with, or linked to, postsecondary certificate and degree programs in the region.

   (C) Offer as many courses as possible that have been approved by the University of California as courses meeting the “A-G” admissions requirements.

2. Curriculum and professional development.

3. Middle school career exploration activities.

4. Externship opportunities that expose middle school and high school teachers to the skills and competencies that pupils need for successful employment in high-growth sectors of the California economy.

5. Active engagement by business and industry in pathway design and implementation, work-based learning, assessment of
student work, and other aspects of effective preparation for success in further postsecondary education and careers.

(e) “Qualified taxpayer” means a business entity that enters into a contract or memorandum of understanding with a local educational agency to provide career technical education that connects pupils to real-world experience and provides sustained exposure to applied academics, skill development, work-related education, and potential future employment.

64202. For taxable calendar years beginning on or after January 1, 2011, the department shall determine and allocate the career pathways investment credit ceiling. The committee department may reserve a portion of anticipated career pathways investment credit ceiling for subsequent taxable calendar years. For purposes of this section, the department shall do all of the following:

(1) Allocate the career pathways investment credit ceiling on a regular basis consisting of two or more periods in a calendar year in which applications may be filed and considered.

(2) The career pathways investment credit shall be allocated to a qualified taxpayer for application over a five-year period. If a qualified taxpayer is allocated a portion of the career pathways investment credit, the qualified taxpayer may apply for another allocation in the sixth year after the first allocation of the credit.

(b) (1) Establish a procedure for qualified taxpayers applicants to file with the department a written application for the allocation of the tax credit, establish application filing deadlines, the maximum amount of career pathways investment credit ceiling that the department may allocate for that period, and the approximate date on which the allocations are made.

(2) The department may contract with other entities to aid in the processing and review of applications.

(c) (1) Give priority in allocating tax credits to the following:

(A) Qualified taxpayers Applicants that have entered into a contract or memorandum of understanding with local educational agencies in communities that have an unemployment rate higher than the statewide unemployment rate, as determined by the United States Census, and a high school graduation rate lower than the statewide high school graduation rate, as determined by the department using the California Longitudinal Pupil Achievement Data System.
(B) **Qualified taxpayers Applicants** that have entered into a contract or memorandum of understanding with local educational agencies with proportions of private funding support that exceed the one-to-one match requirement described in paragraph (1) of subdivision (e).

(C) **Qualified taxpayers Applicants** that have entered into a contract or memorandum of understanding with local educational agencies that are articulated with postsecondary certificate and degree programs in their region.

(2) To the maximum extent practicable, subject to paragraph (1), give priority in allocating career pathways investment credits to **qualified taxpayers applicants** serving socioeconomically diverse student populations and on a geographically equitable basis.

(3) The department shall not give priority to any **qualified taxpayer applicant** by virtue of the date of submission of its application, except to allocate credits where two or more **qualified taxpayers applicants** have the same rating.

(d) Only allocate the career pathways investment credit ceiling to a **qualified taxpayer an applicant** that agrees to enter into an enforceable contract or memorandum of understanding with the department to comply with the requirements of this part, Sections 17057.6 and 23610.6 of the Revenue and Taxation Code, any applicable state laws, and any additional requirements the department deems necessary or appropriate to serve the purposes of this part. The contract or memorandum of understanding shall also provide for legal action to obtain specified performance or monetary damages for breach of contract and shall require regular programmatic audits.

(e) Adopt allocation criteria that awards credits to **qualified taxpayers applicants** that demonstrate that either the **qualified taxpayer applicant** or the local educational agency meets the following criteria:

(1) At least a one-to-one match of private to public investment in middle school and high school programs that create career pathways or similar programs.

(2) The effectiveness of the career pathway program toward preparing students for productive, high-wage employment in growing or high-need sectors of the California economy. Effectiveness criteria shall include:

(A) Pathway completion rates.
(B) High school graduation rates.
(C) Percentages of students attaining an industry certification.
(D) Percentages of students transitioning successfully to postsecondary education.
(E) Employment and earnings after high school.
(3) The level of the qualified taxpayer’s investment in, oversight of, and ability to leverage and sustain current career pathways programs and current career technical education programs.
(f) Develop and provide forms for the purposes of informing potential qualified taxpayers applicants of the purposes of this part.
(g) (1) Certify to each qualified taxpayer applicant the amount of the career pathways credit ceiling allocated to it for the taxable calendar year. The certificate shall include the amount of the credit allocation that may be distributed and applied by the qualified taxpayer applicant against tax liability for each taxable year of the five-year credit allocation period.
(2) The department shall provide a copy of the certification to the qualified taxpayer applicant.
(h) The department may, in its discretion, consult with the Treasurer and the California Tax Credit Allocation Committee regarding the allocation of tax credits. If a request for consultation is made, the Treasurer and the California Tax Credit Allocation Committee shall aid the department.
(i) Establish audit requirements. The department may share information established during an audit with the Franchise Tax Board.
64203. For taxable calendar years beginning on or after January 1, 2011, the department shall develop and provide forms for use by qualified taxpayers applicants and adopt uniform procedures for submission and review of applications. The application shall include, but not be limited to, the following:
(a) A copy of the contract or memorandum of understanding between the qualified taxpayer applicant and the local educational agency that includes, but is not limited to, the following:
(1) A clear and comprehensive plan for each middle school or high school program that creates career pathways.
(2) A description of the nature and value of the qualified taxpayer’s applicant’s support for career exploration activities,
curriculum and professional development programs, and middle
school or high school programs that create career pathways that
integrate academic and technical learning to prepare pupils for
both college and careers. The support may include any of the
following:
(A) Equipment or instructional materials.
(B) Employees to provide instruction, in partnership with
credentialed teachers employed by the school district, at the
schoolsite.
(C) Opportunities for pupils to be mentored by, or to shadow,
employees at a partnering private entity.
(D) Paid or unpaid internships.
(E) Paid jobs.
(F) Teacher externships.
(G) Contributions to programs administered by postsecondary
institutions that provide support to middle or high school programs
that create career pathways. This support may include, but shall
not be limited to, teacher training, curriculum development, and
other forms of technical assistance.
(b) Details about the strength and relevance of the education
plan to the needs of industry for qualified technical employees
applicable to the economic development needs of the region in
which the local education agency and partnering private entity are
located.
(c) Projections of program participant enrollment.
(d) The method by which accountability for program participant
enrollments and outcomes will be maintained. Outcomes shall
include the criteria listed in paragraph (2) of subdivision (e) of
Section 64202.
(e) Any other information deemed relevant by the department.
64204. (a) The department may charge a fee for the submission
of applications for allocations of the current taxable calendar year’s
career pathways investment credit ceiling, reservation of the
following year’s career pathways investment credit ceiling, and
for monitoring the compliance of qualified taxpayers applicants
receiving a credit under this part. If the department chooses to
impose a fee, it shall establish and charge fees in an amount which
it determines are reasonably sufficient to cover the costs of the
department, the State Board of Equalization, and the Franchise
Tax Board in carrying out the administrative responsibilities required by this part.

(b) Fees collected pursuant to this subdivision shall be deposited in the Career Pathways Investment Credit Fee Account, which is hereby created in the State Treasury, and shall be available, upon appropriation by the Legislature to cover the administrative costs of the department, the State Board of Equalization, and the Franchise Tax Board in administering this part.

(c) Until the time sufficient fee revenue is received by the department to fully cover the administrative costs of administering this part, the department may borrow moneys as may be required for the purposes of meeting necessary administrative expenses of the department in administering this part. Any loan made to the department pursuant to this section shall be repayable solely from the moneys appropriated to the department and shall not constitute a general obligation for which the faith and credit of the state are pledged.

64205. The department may prescribe rules and regulations to carry out the purposes of this part, including any rules and regulations necessary to establish procedures, processes, requirements, and rules identified or required to implement this part, including any rules and regulations necessary to establish a fee schedule necessary to offset the costs of administering this part.

SEC. 2. Section 6902.6 is added to the Revenue and Taxation Code, to read:

6902.6. (a) A qualified taxpayer may, in lieu of claiming the credit allowed by Section 17057.6 or 23610.6, make an irrevocable election to apply the credit amount against sales tax reimbursement paid and use taxes paid to a retailer by the qualified taxpayer in accordance with this section.

(b) For purposes of this section:

(1) “Credit amount” means an amount equal to the tax credit amount that would otherwise have been allowed to a qualified taxpayer pursuant to Section 17057.6 or 23610.6 but for the election made pursuant to this section.

(2) “Qualified taxpayer” means a person who is a qualified taxpayer within the meaning of subdivision (b) of Section 17057.6 or 23610.6.
(c) (1) A qualified taxpayer or affiliate shall submit to the board an irrevocable election, in a form as prescribed by the board, which shall include, but not be limited to, the following:

(A) The credit amount.
(B) The amount of sales tax reimbursement and use taxes paid during the taxable year for which the credit is claimed.
(C) A copy of the certification issued by the State Department of Education to the qualified taxpayer under Section 64202 of the Education Code.

(2) The election shall be filed on or before the date on which the qualified taxpayer would first be allowed to claim a credit pursuant to Section 17057.6 or 23610.6 on its tax return.

(d) (1) The qualified taxpayer may elect to obtain a refund of sales and use taxes paid during the period described in subparagraph (B) of paragraph (1) of subdivision (c). If the qualified taxpayer elects to obtain a refund of sales and use taxes, the qualified taxpayer shall file a claim for refund with the irrevocable election described in subdivision (a). The refund amount shall not exceed the credit amount.

(2) No interest shall be paid on any amount refunded or credited pursuant to paragraph (1).

(3) If the qualified taxpayer does not elect to obtain a refund or in the case where the credit amount exceeds the amount of its claim for refund for the sales and use taxes, the qualified taxpayer may offset any remaining credit amount against the sales and use taxes until the credit is exhausted.

(e) Section 6961 shall apply to any refund, or part thereof, that is erroneously made and any credit, or part thereof, that is erroneously allowed pursuant to this section.

(f) The board shall provide an annual listing to the State Department of Education and the Franchise Tax Board, in a form and manner mutually agreed upon, of the qualified taxpayers that, during the year, have made an irrevocable election pursuant to this section and the credit amount claimed by each qualified taxpayer.

SEC. 3.
SEC. 2. Section 17053.74 of the Revenue and Taxation Code is amended to read:

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:

(ia) 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.
(ib) 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.

(ic) 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.

(id) 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.

(ie) 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.

(if) 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.

(ig) 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.

(ih) 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 ex-offender means an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration or a person charged with a felony offense or a misdemeanor offense punishable by incarceration but placed on
probation by a state court without a finding of guilt. Ex-offender shall not include an individual whose record has been expunged.

(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:

(ia) Federal Supplemental Security Income benefits.

(ib) Temporary Assistance for Needy Families.

(ic) Food stamps.

(id) 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) 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.

(X) 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 Workforce Investment Act or the California Work Opportunity and Responsibility to Kids Act (CalWORKs) 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) (A) Obtain, within 42 days from the commencement date of employment, from the Employment Development Department, as permitted by federal law, the local county or city Workforce Investment Act administrative entity, the local county CalWORKs 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.

(B) Applications for certification shall be submitted to the certifying agency within 28 days of the commencement date of employment for the employee. The certifying agency shall not provide a certification for any employee whose employment commenced more than 28 days before the taxpayer requests a certification.

(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 (hereafter 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 (e)) 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.

(l) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning any qualified employee who commences employment on or after January 1, 2011.

SEC. 3. Section 17057.6 is added to the Revenue and Taxation Code, to read:

(a) For taxable years beginning on or after January 1, 2011, there shall be allowed to a qualified taxpayer as a credit against the “net tax,” as defined in Section 17039, an amount equal to that allocated to a qualified taxpayer by the State Department of Education pursuant to Section 64202 of the Education Code, to be applied for each of five taxable years as provided in the certification provided to the qualified taxpayer pursuant to Section 64202 of the Education Code.

(b) For purposes of this section a “qualified taxpayer” means a taxpayer an applicant, as defined in Section 64201 of the Education Code, who is either the sole owner if an individual, partners if the taxpayer is a partnership, or shareholders if the taxpayer is an “S” corporation.

(c) No credit shall be allowed pursuant to this section unless the qualified taxpayer attaches a copy of certification provided to
the qualified taxpayer pursuant to Section 64202 of the Education Code.

(c) Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification provided pursuant to Section 64202 of the Education Code to the Franchise Tax Board.

(d) The aggregate amount of credits that may be allocated in any fiscal calendar year pursuant to this section and Section 23610.6 shall be an amount equal to the sum of the following:

1. Sixteen million dollars ($16,000,000) for the 2010–11 fiscal year.
2. (A) Sixty-five million dollars ($65,000,000) for the 2011–12 fiscal year.
(B) The unused credit allocation amount, if any, for the preceding fiscal year.
3. (A) Ninety-five million dollars ($95,000,000) for the 2012–13 fiscal year, hereafter the baseline amount, and each fiscal year:
   (1) Seventy-eight million dollars ($78,000,000) for the 2011 calendar year.
   (2) (A) One hundred million dollars ($100,000,000) for the 2012 calendar year, hereafter the baseline amount, and each calendar year thereafter. For each subsequent fiscal calendar year, the baseline amount shall be adjusted by the Franchise Tax Board to reflect the rate of inflation or deflation from the previous date that the baseline amount was established, as measured by the Consumer Price Index or other method of measuring the rate of inflation or deflation which the Franchise Tax Board determines is reliable and generally accepted.
   (B) The unused credit allocation amount, if any, for the preceding fiscal calendar year, or years.
4. (e) In the case where the credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.
5. (f) If a qualified taxpayer fails to comply with the requirements of this section or with Part 38 (commencing with Section 64200) of Division 4 of Title 2 of the Education Code, the credit shall be disallowed and assessed and collected under Section 19051 until the requirements are satisfied.
SEC. 5.

SEC. 4. Section 23610.6 is added to the Revenue and Taxation Code, to read:

23610.6. (a) For taxable years beginning on or after January 1, 2011, there shall be allowed to a qualified taxpayer as a credit against the “tax,” as defined in Section 23036, an amount equal to that allocated to a qualified taxpayer by the State Department of Education pursuant to Section 64202 of the Education Code, to be applied for each of five taxable years as provided in the certification provided to the qualified taxpayer pursuant to Section 64202 of the Education Code. Education Code.

(b) For purposes of this section a “qualified taxpayer” means a taxpayer an applicant, as defined in Section 64201 of the Education Code, that is subject to the taxes imposed by this part.

(c) No credit shall be allowed pursuant to this section unless the qualified taxpayer attaches a copy of certification provided to the qualified taxpayer pursuant to Section 64202 of the Education Code.

(c) Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification provided pursuant to Section 64202 of the Education Code to the Franchise Tax Board.

(d) The aggregate amount of credits that may be allocated in any fiscal calendar year pursuant to this section and Section 17057.6 shall be an amount equal to the sum of the following:

1. Sixteen million dollars ($16,000,000) for the 2010–11 fiscal year.
2. (A) Sixty-five million dollars ($65,000,000) for the 2011–12 fiscal year.
   (B) The unused credit allocation amount, if any, for the preceding fiscal year.
3. (A) Ninety-five million dollars ($95,000,000) for the 2012–13 fiscal year, hereafter the baseline amount, and each fiscal year thereafter. For each subsequent fiscal calendar year, the baseline amount shall be adjusted by the Franchise Tax Board to reflect the rate of inflation or deflation from the previous date.
that the baseline amount was established, as measured by the
Consumer Price Index or other method of measuring the rate of
inflation or deflation which the Franchise Tax Board determines
is reliable and generally accepted.

(B) The unused credit allocation amount, if any, for the
preceding fiscal year, or years.

(e) In the case where the credit allowed under this section
exceeds the “tax,” the excess credit may be carried over to reduce
the “tax” in the following taxable year, and succeeding taxable
years, if necessary, until the credit has been exhausted.

(f) If a qualified taxpayer fails to comply with the requirements
of this section or with Part 38 (commencing with Section 64200)
of Division 4 of Title 2 of the Education Code, the credit shall be
disallowed and assessed and collected under Section 19051 until
the requirements are satisfied.

SEC. 5. Section 23622.7 of the Revenue and Taxation Code is
amended to read:

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

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

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

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

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

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

(b) For purposes of this section:

(1) “Qualified wages” means:

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

(ii) For up to 1,350 qualified employees who are employed by
the taxpayer in the Long Beach Enterprise Zone in aircraft
manufacturing activities described in Codes 3721 to 3728,
inclusive, and Code 3812 of the Standard Industrial Classification
(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.
(ie) 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. An ex-offender means an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration or a person charged with a felony offense or a misdemeanor offense punishable by incarceration but placed on probation by a state court without a finding of guilt. Ex-offender shall not include an individual whose record has been expunged.

(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:


(bb) Aid to Families with Dependent Children.

(ib) Temporary Assistance for Needy Families.
(ic) Food stamps.
(dd)
(id) 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 Workforce Investment Act or the Greater Avenues for Independence Act of 1985 California Work Opportunity and Responsibility to Kids Act (CalWORKs) 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, within 42 days from the commencement date of employment, from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Workforce Investment Act administrative
entity, the local county GAIN CalWORKs 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.

(B) Applications for certification shall be submitted to the certifying agency within 28 days of the commencement date of employment for the employee. The certifying agency shall not provide a certification for any employee whose employment commenced more than 28 days before the taxpayer requests a certification.

(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 (hereafter 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 (e)) 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 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(e) 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.

(l) The changes made to this section by the act adding this
subdivision shall apply to any qualified employee who commences
employment on or after January 1, 2011.

SEC. 6. This act provides for a tax levy within the meaning of
Article IV of the Constitution and shall go into immediate effect.
All matter omitted in this version of the bill appears in the bill as amended in the Senate, May 3, 2010. (JR11)