

AMENDED IN SENATE MAY 13, 2015

AMENDED IN SENATE APRIL 23, 2015

SENATE BILL

No. 670

Introduced by Senator Jackson

February 27, 2015

An act to amend Section 17052.6 of, and to add and repeal Sections 17052.17, 17052.18, 23617, and 23618 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 670, as amended, Jackson. Income taxes: credit: dependent care: child care.

(1) The Personal Income Tax Law, in modified conformity to federal income tax law, authorizes a credit for household and dependent care expenses necessary for gainful employment, as provided. That law provides that the amount of the state credit is a percentage of the allowable federal credit determined on the basis of the amount of federal adjusted gross income earned, as provided.

This bill, for taxable years beginning on or after January 1, 2016, would increase the amount of the applicable state credit percentage, as provided.

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

This bill, for taxable years beginning on and after January 1, 2016, and before January 1, 2021, would allow a credit in the amount of 30% of the costs of startup expenses for child care programs, constructing a child care facility, providing child care information and referral services, and contributing to a qualified care plan, as defined. The bill would

also require the Franchise Tax Board to report to the Legislature on the effectiveness of these credits, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 17052.6 of the Revenue and Taxation
2 Code is amended to read:

3 17052.6. (a) For each taxable year beginning on or after
4 January 1, 2000, there shall be allowed as a credit against the “net
5 tax”, as defined in Section 17039, an amount determined in
6 accordance with Section 21 of the Internal Revenue Code, relating
7 to expenses for household and dependent care services necessary
8 for gainful employment, except that the amount of the credit shall
9 be a percentage, as provided in subdivision (b) of the allowable
10 federal credit without taking into account whether there is a federal
11 tax liability.

12 (b) For the purposes of subdivision (a), the percentage of the
13 allowable federal credit shall be determined as follows:

14 (1) For taxable years beginning before January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
18 \$40,000 or less.....	63%
19 Over \$40,000 but not over \$70,000.....	53%
20 Over \$70,000 but not over \$100,000.....	42%
21 Over \$100,000.....	0%

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23 (2) For taxable years beginning on or after January 1, 2003, and
24 before January 1, 2016:

If the adjusted gross income is:	The percentage of credit is:
28 \$40,000 or less.....	50%
29 Over \$40,000 but not over \$70,000.....	43%
30 Over \$70,000 but not over \$100,000.....	34%
31 Over \$100,000.....	0%

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1 (3) For taxable years beginning on or after January 1, 2016:

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If the adjusted gross income is:	The percentage of credit is:
\$40,000 or less.....	63%
Over \$40,000 but not over \$70,000.....	53%
Over \$70,000 but not over \$100,000.....	42%
Over \$100,000.....	0%

10 (c) For purposes of this section, “adjusted gross income” means
11 adjusted gross income as computed for purposes of paragraph (2)
12 of subdivision (h) of Section 17024.5.

13 (d) The credit authorized by this section shall be limited, as
14 follows:

15 (1) Employment-related expenses, within the meaning of Section
16 21 of the Internal Revenue Code, relating to expenses for household
17 and dependent care services necessary for gainful employment,
18 shall be limited to expenses for household services and care
19 provided in this state.

20 (2) Earned income, within the meaning of Section 21(d) of the
21 Internal Revenue Code, relating to earned income limitation, shall
22 be limited to earned income subject to tax under this part. For
23 purposes of this paragraph, compensation received by a member
24 of the armed forces for active services as a member of the armed
25 forces, other than pensions or retired pay, shall be considered
26 earned income subject to tax under this part, whether or not the
27 member is domiciled in this state.

28 (e) For purposes of this section, Section 21(b)(1) of the Internal
29 Revenue Code, relating to a qualifying individual, is modified to
30 additionally provide that a child, as defined in Section ~~152(e)(3)~~
31 ~~152(f)(1)~~ of the Internal Revenue Code, relating to age
32 requirements, shall be treated, for purposes of Section 152 of the
33 Internal Revenue Code, relating to dependent defined, as applicable
34 for purposes of this section, as receiving over one-half of his or
35 her support during the calendar year from the parent having custody
36 for a greater portion of the calendar year, that parent shall be treated
37 as a “custodial parent,” within the meaning of Section 152(e) of
38 the Internal Revenue Code, relating to special rule for divorced
39 parents, etc., as applicable for purposes of this section, and the
40 child shall be treated as a ~~qualifying individual under Section~~

1 ~~21(b)(1) of the Internal Revenue Code, relating to qualifying~~
2 ~~individual, as applicable for purposes of this section, dependent~~
3 ~~who has not attained 13 years of age, if both of the following~~
4 ~~apply:~~

5 (1) The child receives over one-half of his or her support during
6 the calendar year from his or her parents who never married each
7 other and who lived apart at all times during the last six months
8 of the calendar year.

9 (2) The child is in the custody of one or both of his or her parents
10 for more than one-half of the calendar year.

11 (f) The amendments to this section made by Section 1.5 of
12 Chapter 824 of the Statutes of 2002 shall apply only to taxable
13 years beginning on or after January 1, 2002.

14 (g) The amendments made to this section by Chapter 14 of the
15 Statutes of 2011 shall apply to taxable years beginning on or after
16 January 1, 2011.

17 SEC. 2. Section 17052.17 is added to the Revenue and Taxation
18 Code, to read:

19 17052.17. (a) For each taxable year beginning on or after
20 January 1, 2016, and before January 1, 2021, there shall be allowed
21 as a credit against the “net tax,” as defined by Section 17039, an
22 amount equal to the amount determined in subdivision (b).

23 (b) (1) The amount of the credit allowed by this section shall
24 be 30 percent of any of the following:

25 (A) The cost paid or incurred by the taxpayer on or after January
26 1, 2016, for the startup expenses of establishing a child care
27 program or constructing a child care facility in California, to be
28 used primarily by the children of the taxpayer’s employees.

29 (B) For each taxable year beginning on or after January 1, 2016,
30 the cost paid or incurred by the taxpayer for startup expenses of
31 establishing a child care program or constructing a child care
32 facility in California, to be used primarily by the children of
33 employees of tenants leasing commercial or office space in a
34 building owned by the taxpayer.

35 (C) (i) The cost paid or incurred by the taxpayer on or after
36 January 1, 2016, for contributions to California child care
37 information and referral services, including, but not limited to,
38 those that identify local child care services, offer information
39 describing these resources to the taxpayer’s employees, and make

1 referrals of the taxpayer’s employees to child care services where
2 there are vacancies.

3 (ii) In the case of a child care facility established by two or more
4 taxpayers, the credit shall be allowed to each taxpayer if the facility
5 is to be used primarily by the children of the employees of each
6 of the taxpayers or the children of the employees of the tenants of
7 each of the taxpayers.

8 (2) The amount of the credit allowed by this section shall not
9 exceed fifty thousand dollars (\$50,000) for a taxable year.

10 (c) For purposes of this section, “startup expenses” include, but
11 are not limited to, feasibility studies, site preparation, and
12 construction, renovation, or acquisition of facilities for purposes
13 of establishing or expanding onsite or nearsite centers by one or
14 more employers or one or more building owners leasing space to
15 employers.

16 (d) If two or more taxpayers share in the costs eligible for the
17 credit provided by this section, each taxpayer shall be eligible to
18 receive a tax credit with respect to his, her, or its respective share
19 of the costs paid or incurred.

20 (e) (1) In the case where the credit allowed and limited under
21 subdivision (b) for the taxable year exceeds the “net tax,” the
22 excess may be carried over to reduce the “net tax” in the following
23 year, and succeeding years if necessary, until the credit has been
24 exhausted. However, the excess from any one year shall not exceed
25 fifty thousand dollars (\$50,000).

26 (2) If the credit carryovers from preceding taxable years allowed
27 under paragraph (1) plus the credit allowed for the taxable year
28 under subdivision (b) would exceed an aggregate total of fifty
29 thousand dollars (\$50,000), then the credit allowed to reduce the
30 “net tax” under this section for the taxable year shall be limited to
31 fifty thousand dollars (\$50,000) and the amount in excess of the
32 fifty-thousand-dollar (\$50,000) limit may be carried over and
33 applied against the “net tax” in the following year, and succeeding
34 years if necessary, in an amount which, when added to the credit
35 allowed under subdivision (b) for that succeeding taxable year,
36 does not exceed fifty thousand dollars (\$50,000).

37 (f) A deduction shall not be allowed as otherwise provided in
38 this part for that portion of expenses paid or incurred for the taxable
39 year which is equal to the amount of the credit allowed under this
40 section attributable to those expenses.

1 (g) In lieu of claiming the tax credit provided by this section,
2 the taxpayer may elect to take depreciation pursuant to Section
3 17250. In addition, the taxpayer may take depreciation pursuant
4 to that section for the cost of a facility in excess of the amount of
5 the tax credit claimed under this section.

6 (h) The basis for any child care facility for which a credit is
7 allowed shall be reduced by the amount of the credit attributable
8 to the facility. The basis adjustment shall be made for the taxable
9 year for which the credit is allowed.

10 (i) A credit shall not be allowed under subparagraph (B) of
11 paragraph (1) of subdivision (b) in the case of any taxpayer that
12 is required by any local ordinance or regulation to provide a child
13 care facility.

14 (j) (1) In order to be eligible for the credit allowed under
15 subparagraph (A) or (B) of paragraph (1) of subdivision (b), the
16 taxpayer shall submit to the Franchise Tax Board upon request a
17 statement certifying that the costs for which the credit is claimed
18 are incurred with respect to the startup expenses of establishing a
19 child care program or constructing a child care facility in California
20 to be used primarily by the children of the taxpayer's employees
21 or the children of the employees of tenants leasing commercial or
22 office space in a building owned by the taxpayer and which will
23 be in operation for at least 60 consecutive months after completion.

24 (2) If the child care center for which a credit is claimed pursuant
25 to this section is disposed of or ceases to operate within 60 months
26 after completion, that portion of the credit claimed which represents
27 the remaining portion of the 60-month period shall be added to
28 the taxpayer's tax liability in the taxable year of that disposition
29 or nonuse.

30 (k) In order to be allowed the credit under subparagraph (A) or
31 (B) of paragraph (1) of subdivision (b), the taxpayer shall indicate,
32 in the form and manner prescribed by the Franchise Tax Board,
33 the number of children that the child care program or facility will
34 be able to legally accommodate.

35 (l) (1) On or before January 1, 2018, the Franchise Tax Board
36 shall submit to the Legislature a report on the following:

37 (A) The dollar amount of credits claimed annually.

38 (B) The number of child care facilities established or constructed
39 by taxpayers claiming the credit.

40 (C) The number of children served by these facilities.

1 (2) The report to be submitted by paragraph (1) shall be
2 submitted in compliance with Section 9795 of the Government
3 Code.

4 (3) Section 41 does not apply to the credit allowed by this
5 section.

6 (m) This section shall remain in effect only until December 1,
7 2021, and as of that date is repealed.

8 SEC. 3. Section 17052.18 is added to the Revenue and Taxation
9 Code, to read:

10 17052.18. (a) For each taxable year beginning on or after
11 January 1, 2016, and before January 1, 2021, there shall be allowed
12 as a credit against the “net tax,” as defined by Section 17039, an
13 amount equal to the amount determined in subdivision (b).

14 (b) (1) The amount of the credit allowed by this section shall
15 be 30 percent of the cost paid or incurred by the taxpayer for
16 contributions to a qualified care plan made on behalf of any
17 qualified dependent of the taxpayer’s qualified employee.

18 (2) The amount of the credit allowed by this section in any
19 taxable year shall not exceed three hundred sixty dollars (\$360)
20 for each qualified dependent.

21 (c) For purposes of this section:

22 (1) “Qualified care plan” means a plan providing qualified care.

23 (2) “Qualified care” includes, but is not limited to, onsite service,
24 center-based service, in-home care or home-provider care, and a
25 dependent care center as defined by Section 21(b)(2)(D) of the
26 Internal Revenue Code that is a specialized center with respect to
27 short-term illnesses of an employee’s dependents. “Qualified care”
28 must be provided in this state under the authority of a license when
29 required by California law.

30 (3) “Specialized center” means a facility that provides care to
31 mildly ill children and that may do all of the following:

32 (A) Be staffed by pediatric nurses and day care workers.

33 (B) Admit children suffering from common childhood ailments
34 (including colds, flu, and chickenpox).

35 (C) Make special arrangements for well children with minor
36 problems associated with diabetes, asthma, breaks or sprains, and
37 recuperation from surgery.

38 (D) Separate children according to their illness and symptoms
39 in order to protect them from cross-infection.

1 (4) “Contributions” include direct payments to child care
2 programs or providers. “Contributions” do not include amounts
3 contributed to a qualified care plan pursuant to a salary reduction
4 agreement to provide benefits under a dependent care assistance
5 program within the meaning of Section 129 of the Internal Revenue
6 Code, as applicable, for purposes of Part 11 (commencing with
7 Section 23001) and this part.

8 (5) “Qualified employee” means any employee of the taxpayer
9 who is performing services for the taxpayer in this state, within
10 the meaning of Section 25133, during the period in which the
11 qualified care is performed.

12 (6) “Employee” includes an individual who is an employee
13 within the meaning of Section 401(c)(1) of the Internal Revenue
14 Code, relating to self-employed individual treated as employee.

15 (7) “Qualified dependent” means any dependent of a qualified
16 employee who is under 12 years of age.

17 (d) If an employer makes contributions to a qualified care plan
18 and also collects fees from parents to support a child care facility
19 owned and operated by the employer, a credit shall not be allowed
20 under this section for contributions in the amount, if any, by which
21 the sum of the contributions and fees exceed the total cost of
22 providing care. The Franchise Tax Board may require information
23 about fees collected from parents of children served in the facility
24 from taxpayers claiming credits under this section.

25 (e) If the duration of the child care received is less than 42
26 weeks, the employer shall claim a prorated portion of the allowable
27 credit. The employer shall prorate the credit using the ratio of the
28 number of weeks of care received divided by 42 weeks.

29 (f) If the credit allowed by this section exceeds the “net tax,”
30 the excess may be carried over to reduce the “net tax” in the
31 following year, and succeeding years if necessary, until the credit
32 has been exhausted.

33 (g) The credit shall not be available to an employer if the care
34 provided on behalf of an employee is provided by an individual
35 who:

36 (1) Qualifies as a dependent of that employee or that employee’s
37 spouse under subdivision (d) of Section 17054.

38 (2) Is, within the meaning of Section 17056, a son, stepson,
39 daughter, or stepdaughter of that employee and is under 19 years
40 of age at the close of that taxable year.

1 (h) The contributions to a qualified care plan shall not
2 discriminate in favor of employees who are officers, owners, or
3 highly compensated, or their dependents.

4 (i) A deduction shall not be allowed as otherwise provided in
5 this part for that portion of expenses paid or incurred for the taxable
6 year that is equal to the amount of the credit allowed under this
7 section.

8 (j) If the credit is taken by an employer for contributions to a
9 qualified care plan that is used at a facility owned by the employer,
10 the basis of that facility shall be reduced by the amount of the
11 credit. The basis adjustment shall be made for the taxable year for
12 which the credit is allowed.

13 (k) In order to be allowed the credit authorized under this
14 section, the taxpayer shall indicate, in the form and manner
15 prescribed by the Franchise Tax Board, the number of children of
16 employers served by the qualified child care plan.

17 (l) (1) On or before January 1, 2018, the Franchise Tax Board
18 shall submit to the Legislature a report on the following:

19 (A) The dollar amount of credits claimed annually.

20 (B) The number of children of employees served by the qualified
21 child care plan for which the taxpayer claimed a credit.

22 (2) The report to be submitted by paragraph (1) shall be
23 submitted in compliance with Section 9795 of the Government
24 Code.

25 (3) Section 41 does not apply to the credit allowed by this
26 section.

27 (m) This section shall remain in effect only until December 1,
28 2021, and as of that date is repealed.

29 SEC. 4. Section 23617 is added to the Revenue and Taxation
30 Code, to read:

31 23617. (a) For each taxable year beginning on or after January
32 1, 2016, and before January 1, 2021, there shall be allowed as a
33 credit against the "tax," as defined by Section 23036, an amount
34 equal to the amount determined in subdivision (b).

35 (b) (1) The amount of the credit allowed by this section shall
36 be 30 percent of any of the following:

37 (A) The cost paid or incurred by the taxpayer on or after January
38 1, 2016, for the startup expenses of establishing a child care
39 program or constructing a child care facility in California, to be
40 used primarily by the children of the taxpayer's employees.

1 (B) For each taxable year beginning on or after January 1, 2016,
2 the cost paid or incurred by the taxpayer for startup expenses of
3 establishing a child care program or constructing a child care
4 facility in California to be used primarily by the children of
5 employees of tenants leasing commercial or office space in a
6 building owned by the taxpayer.

7 (C) (i) The cost paid or incurred by the taxpayer on or after
8 January 1, 2016, for contributions to California child care
9 information and referral services, including, but not limited to,
10 those that identify local child care services, offer information
11 describing these resources to the taxpayer's employees, and make
12 referrals of the taxpayer's employees to child care services where
13 there are vacancies.

14 (ii) In the case of a child care facility established by two or more
15 taxpayers, the credit shall be allowed to each taxpayer if the facility
16 is to be used primarily by the children of the employees of each
17 of the taxpayers or the children of the employees of the tenants of
18 each of the taxpayers.

19 (2) The amount of the credit allowed by this section shall not
20 exceed fifty thousand dollars (\$50,000) for a taxable year.

21 (c) For purposes of this section, "startup expenses" include, but
22 are not limited to, feasibility studies, site preparation, and
23 construction, renovation, or acquisition of facilities for purposes
24 of establishing or expanding onsite or nearsite centers by one or
25 more employers or one or more building owners leasing space to
26 employers.

27 (d) If two or more taxpayers share in the costs eligible for the
28 credit provided by this section, each taxpayer shall be eligible to
29 receive a tax credit with respect to its respective share of the costs
30 paid or incurred.

31 (e) (1) In the case where the credit allowed and limited under
32 subdivision (b) for the taxable year exceeds the "tax," the excess
33 may be carried over to reduce the "tax" in the following year, and
34 succeeding years if necessary, until the credit has been exhausted.
35 However, the excess from any one year shall not exceed fifty
36 thousand dollars (\$50,000).

37 (2) If the credit carryovers from preceding taxable years allowed
38 under paragraph (1) plus the credit allowed for the taxable year
39 under subdivision (b) would exceed an aggregate total of fifty
40 thousand dollars (\$50,000), then the credit allowed to reduce the

1 “tax” under this section for the taxable year shall be limited to fifty
2 thousand dollars (\$50,000) and the amount in excess of the
3 fifty-thousand-dollar (\$50,000) limit may be carried over and
4 applied against the “tax” in the following year, and succeeding
5 years if necessary, in an amount which, when added to the credit
6 allowed under subdivision (b) for that succeeding taxable year,
7 does not exceed fifty thousand dollars (\$50,000).

8 (f) A deduction shall not be allowed as otherwise provided in
9 this part for that portion of expenses paid or incurred for the taxable
10 year which is equal to the amount of the credit allowed under this
11 section attributable to those expenses.

12 (g) The basis for any child care facility for which a credit is
13 allowed shall be reduced by the amount of the credit attributable
14 to the facility. The basis adjustment shall be made for the taxable
15 year for which the credit is allowed.

16 (h) A credit shall not be allowed under subparagraph (B) of
17 paragraph (1) of subdivision (b) in the case of any taxpayer that
18 is required by any local ordinance or regulation to provide a child
19 care facility.

20 (i) (1) In order to be eligible for the credit allowed under
21 subparagraph (A) or (B) of paragraph (1) of subdivision (b), the
22 taxpayer shall submit to the Franchise Tax Board upon request a
23 statement certifying that the costs for which the credit is claimed
24 are incurred with respect to the startup expenses of establishing a
25 child care program or constructing a child care facility in California
26 to be used primarily by the children of the taxpayer’s employees
27 or the children of the employees of tenants leasing commercial or
28 office space in a building owned by the taxpayer and which will
29 be in operation for at least 60 consecutive months after completion.

30 (2) If the child care center for which a credit is claimed pursuant
31 to this section is disposed of or ceases to operate within 60 months
32 after completion, that portion of the credit claimed which represents
33 the remaining portion of the 60-month period shall be added to
34 the taxpayer’s tax liability in the taxable year of that disposition
35 or nonuse.

36 (j) In order to be allowed the credit under subparagraph (A) or
37 (B) of paragraph (1) of subdivision (b), the taxpayer shall indicate,
38 in the form and manner prescribed by the Franchise Tax Board,
39 the number of children that the child care program or facility will
40 be able to legally accommodate.

- 1 (k) (1) On or before January 1, 2018, the Franchise Tax Board
2 shall submit to the Legislature a report on the following:
- 3 (A) The dollar amount of credits claimed annually.
4 (B) The number of child care facilities established or constructed
5 by taxpayers claiming the credit.
6 (C) The number of children served by these facilities.
- 7 (2) The report to be submitted by paragraph (1) shall be
8 submitted in compliance with Section 9795 of the Government
9 Code.
- 10 (3) Section 41 does not apply to the credit allowed by this
11 section.
- 12 (l) This section shall remain in effect only until December 1,
13 2021, and as of that date is repealed.
- 14 SEC. 5. Section 23618 is added to the Revenue and Taxation
15 Code, to read:
- 16 23618. (a) For each taxable year beginning on or after January
17 1, 2016, and before January 1, 2021, there shall be allowed as a
18 credit against the “tax,” as defined by Section 23036, an amount
19 equal to the amount determined in subdivision (b).
- 20 (b) (1) The amount of the credit allowed by this section shall
21 be 30 percent of the cost paid or incurred by the taxpayer for
22 contributions to a qualified care plan made on behalf of any
23 qualified dependent of the taxpayer’s qualified employee.
- 24 (2) The amount of the credit allowed by this section in any
25 taxable year shall not exceed three hundred sixty dollars (\$360)
26 for each qualified dependent.
- 27 (c) For purposes of this section:
- 28 (1) “Qualified care plan” means a plan providing qualified care.
- 29 (2) “Qualified care” includes, but is not limited to, onsite service,
30 center-based service, in-home care or home-provider care, and a
31 dependent care center as defined by Section 21(b)(2)(D) of the
32 Internal Revenue Code that is a specialized center with respect to
33 short-term illnesses of an employee’s dependents. “Qualified care”
34 must be provided in this state under the authority of a license when
35 required by California law.
- 36 (3) “Specialized center” means a facility that provides care to
37 mildly ill children and that may do all of the following:
- 38 (A) Be staffed by pediatric nurses and day care workers.
39 (B) Admit children suffering from common childhood ailments
40 (including colds, flu, and chickenpox).

1 (C) Make special arrangements for well children with minor
2 problems associated with diabetes, asthma, breaks or sprains, and
3 recuperation from surgery.

4 (D) Separate children according to their illness and symptoms
5 in order to protect them from cross-infection.

6 (4) “Contributions” include direct payments to child care
7 programs or providers. “Contributions” do not include amounts
8 contributed to a qualified care plan pursuant to a salary reduction
9 agreement to provide benefits under a dependent care assistance
10 program within the meaning of Section 129 of the Internal Revenue
11 Code, as applicable, for purposes of Part 10 (commencing with
12 Section 17001) and this part.

13 (5) “Qualified employee” means any employee of the taxpayer
14 who is performing services for the taxpayer in this state, within
15 the meaning of Section 25133, during the period in which the
16 qualified care is performed.

17 (6) “Employee” includes an individual who is an employee
18 within the meaning of Section 401(c)(1) of the Internal Revenue
19 Code, relating to self-employed individual treated as employee.

20 (7) “Qualified dependent” means any dependent of a qualified
21 employee who is under 12 years of age.

22 (d) If an employer makes contributions to a qualified care plan
23 and also collects fees from parents to support a child care facility
24 owned and operated by the employer, a credit shall not be allowed
25 under this section for contributions in the amount, if any, by which
26 the sum of the contributions and fees exceed the total cost of
27 providing care. The Franchise Tax Board may require information
28 about fees collected from parents of children served in the facility
29 from taxpayers claiming credits under this section.

30 (e) If the duration of the child care received is less than 42
31 weeks, the employer shall claim a prorated portion of the allowable
32 credit. The employer shall prorate the credit using the ratio of the
33 number of weeks of care received divided by 42 weeks.

34 (f) If the credit allowed under this section exceeds the “tax,”
35 the excess may be carried over to reduce the “tax” in the following
36 year, and succeeding years if necessary, until the credit has been
37 exhausted.

38 (g) The credit shall not be available to an employer if the care
39 provided on behalf of an employee is provided by an individual
40 who:

1 (1) Qualifies as a dependent of that employee or that employee’s
2 spouse under subdivision (d) of Section 17054.

3 (2) Is, within the meaning of Section 17056, a son, stepson,
4 daughter, or stepdaughter of that employee and is under 19 years
5 of age at the close of that taxable year.

6 (h) The contributions to a qualified care plan shall not
7 discriminate in favor of employees who are officers, owners, or
8 highly compensated, or their dependents.

9 (i) A deduction shall not be allowed as otherwise provided in
10 this part for that portion of expenses paid or incurred for the taxable
11 year that is equal to the amount of the credit allowed under this
12 section.

13 (j) If the credit is taken by an employer for contributions to a
14 qualified care plan that is used at a facility owned by the employer,
15 the basis of that facility shall be reduced by the amount of the
16 credit. The basis adjustment shall be made for the taxable year for
17 which the credit is allowed.

18 (k) In order to be allowed the credit authorized under this
19 section, the taxpayer shall indicate, in the form and manner
20 prescribed by the Franchise Tax Board, the number of children of
21 employers served by the qualified child care plan.

22 (l) (1) On or before January 1, 2018, the Franchise Tax Board
23 shall submit to the Legislature a report on the following:

- 24 (A) The dollar amount of credits claimed annually.
- 25 (B) The number of children of employees served by the qualified
26 child care plan for which the taxpayer claimed a credit.

27 (2) The report to be submitted by paragraph (1) shall be
28 submitted in compliance with Section 9795 of the Government
29 Code.

30 (3) Section 41 does not apply to the credit allowed by this
31 section.

32 (m) This section shall remain in effect only until December 1,
33 2021, and as of that date is repealed.

34 SEC. 6. This act provides for a tax levy within the meaning of
35 Article IV of the Constitution and shall go into immediate effect.

O