

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 13, 2015

AMENDED IN SENATE APRIL 23, 2015

## SENATE BILL

**No. 670**

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**Introduced by Senator Jackson**

February 27, 2015

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An act 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: child care.

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 authorize, in the case where the credit allowed for the taxable year exceeds the "net tax" or "tax" the excess to be carried over to reduce the "net tax" or "tax" in the following year, and the succeeding 7 years if necessary, as specified.* 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 17052.17 is added to the Revenue and  
2     Taxation Code, to read:  
3     17052.17. (a) For each taxable year beginning on or after  
4     January 1, 2016, and before January 1, 2021, there shall be allowed  
5     as a credit against the “net tax,” as defined by Section 17039, an  
6     amount equal to the amount determined in subdivision (b).  
7     (b) (1) The amount of the credit allowed by this section shall  
8     be 30 percent of any of the following:  
9     (A) The cost paid or incurred by the taxpayer on or after January  
10    1, 2016, for the startup expenses of establishing a child care  
11    program or constructing a child care facility in California, to be  
12    used primarily by the children of the taxpayer’s employees.  
13    (B) For each taxable year beginning on or after January 1, 2016,  
14    the cost paid or incurred by the taxpayer for startup expenses of  
15    establishing a child care program or constructing a child care  
16    facility in California, to be used primarily by the children of  
17    employees of tenants leasing commercial or office space in a  
18    building owned by the taxpayer.  
19    (C) (i) The cost paid or incurred by the taxpayer on or after  
20    January 1, 2016, for contributions to California child care  
21    information and referral services, including, but not limited to,  
22    those that identify local child care services, offer information  
23    describing these resources to the taxpayer’s employees, and make  
24    referrals of the taxpayer’s employees to child care services where  
25    there are vacancies.  
26    (ii) In the case of a child care facility established by two or more  
27    taxpayers, the credit shall be allowed to each taxpayer if the facility  
28    is to be used primarily by the children of the employees of each  
29    of the taxpayers or the children of the employees of the tenants of  
30    each of the taxpayers.  
31    (2) The amount of the credit allowed by this section shall not  
32    exceed fifty thousand dollars (\$50,000) for a taxable year.  
33    (c) For purposes of this section, “startup expenses” include, but  
34    are not limited to, feasibility studies, site preparation, and  
35    construction, renovation, or acquisition of facilities for purposes

1 of establishing or expanding onsite or nearsite centers by one or  
2 more employers or one or more building owners leasing space to  
3 employers.

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

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

14 (2) If the credit carryovers from preceding taxable years allowed  
15 under paragraph (1) plus the credit allowed for the taxable year  
16 under subdivision (b) would exceed an aggregate total of fifty  
17 thousand dollars (\$50,000), then the credit allowed to reduce the  
18 “net tax” under this section for the taxable year shall be limited to  
19 fifty thousand dollars (\$50,000) and the amount in excess of the  
20 fifty-thousand-dollar (\$50,000) limit may be carried over and  
21 applied against the “net tax” in the following year, and succeeding  
22 years if necessary, in an amount which, when added to the credit  
23 allowed under subdivision (b) for that succeeding taxable year,  
24 does not exceed fifty thousand dollars (\$50,000).

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

29 (g) In lieu of claiming the tax credit provided by this section,  
30 the taxpayer may elect to take depreciation pursuant to Section  
31 17250. In addition, the taxpayer may take depreciation pursuant  
32 to that section for the cost of a facility in excess of the amount of  
33 the tax credit claimed under this section.

34 (h) The basis for any child care facility for which a credit is  
35 allowed shall be reduced by the amount of the credit attributable  
36 to the facility. The basis adjustment shall be made for the taxable  
37 year for which the credit is allowed.

38 (i) A credit shall not be allowed under subparagraph (B) of  
39 paragraph (1) of subdivision (b) in the case of any taxpayer that

1 is required by any local ordinance or regulation to provide a child  
2 care facility.

3 (j) (1) In order to be eligible for the credit allowed under  
4 subparagraph (A) or (B) of paragraph (1) of subdivision (b), the  
5 taxpayer shall submit to the Franchise Tax Board upon request a  
6 statement certifying that the costs for which the credit is claimed  
7 are incurred with respect to the startup expenses of establishing a  
8 child care program or constructing a child care facility in California  
9 to be used primarily by the children of the taxpayer's employees  
10 or the children of the employees of tenants leasing commercial or  
11 office space in a building owned by the taxpayer and which will  
12 be in operation for at least 60 consecutive months after completion.

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

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

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

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

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

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

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

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

35 (m) This section shall remain in effect only until December 1,  
36 2021, and as of that date is repealed.

37 SEC. 2. Section 17052.18 is added to the Revenue and Taxation  
38 Code, to read:

39 17052.18. (a) For each taxable year beginning on or after  
40 January 1, 2016, and before January 1, 2021, there shall be allowed

1 as a credit against the “net tax,” as defined by Section 17039, an  
2 amount equal to the amount determined in subdivision (b).

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

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

10 (c) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

6 (d) If an employer makes contributions to a qualified care plan  
7 and also collects fees from parents to support a child care facility  
8 owned and operated by the employer, a credit shall not be allowed  
9 under this section for contributions in the amount, if any, by which  
10 the sum of the contributions and fees exceed the total cost of  
11 providing care. The Franchise Tax Board may require information  
12 about fees collected from parents of children served in the facility  
13 from taxpayers claiming credits under this section.

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

18 (f) If the credit allowed by this section exceeds the “net tax,”  
19 the excess may be carried over to reduce the “net tax” in the  
20 following year, and *the* succeeding *seven* years if necessary, until  
21 the credit has been exhausted.

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

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

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

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

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

37 (j) If the credit is taken by an employer for contributions to a  
38 qualified care plan that is used at a facility owned by the employer,  
39 the basis of that facility shall be reduced by the amount of the

1 credit. The basis adjustment shall be made for the taxable year for  
2 which the credit is allowed.

3 (k) In order to be allowed the credit authorized under this  
4 section, the taxpayer shall indicate, in the form and manner  
5 prescribed by the Franchise Tax Board, the number of children of  
6 ~~employers~~ *employees* served by the qualified child care plan.

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

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

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

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

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

17 (m) This section shall remain in effect only until December 1,  
18 2021, and as of that date is repealed.

19 SEC. 3. Section 23617 is added to the Revenue and Taxation  
20 Code, to read:

21 23617. (a) For each taxable year beginning on or after January  
22 1, 2016, and before January 1, 2021, there shall be allowed as a  
23 credit against the "tax," as defined by Section 23036, an amount  
24 equal to the amount determined in subdivision (b).

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

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

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

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

1 describing these resources to the taxpayer's employees, and make  
2 referrals of the taxpayer's employees to child care services where  
3 there are vacancies.

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

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

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

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

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

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

38 (f) A deduction shall not be allowed as otherwise provided in  
39 this part for that portion of expenses paid or incurred for the taxable



1 year which is equal to the amount of the credit allowed under this  
2 section attributable to those expenses.

3 (g) The basis for any child care facility for which a credit is  
4 allowed shall be reduced by the amount of the credit attributable  
5 to the facility. The basis adjustment shall be made for the taxable  
6 year for which the credit is allowed.

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

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

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

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

32 (k) (1) On or before January 1, 2018, the Franchise Tax Board  
33 shall submit to the Legislature a report on the following:

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

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

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

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

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

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

SEC. 4. Section 23618 is added to the Revenue and Taxation Code, to read:

23618. (a) For each taxable year beginning on or after January 1, 2016, and before January 1, 2021, there shall be allowed as a credit against the “tax,” as defined by Section 23036, an amount equal to the amount determined in subdivision (b).

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

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

(c) For purposes of this section:

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

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

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

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

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

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

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

(4) “Contributions” include direct payments to child care programs or providers. “Contributions” do not include amounts contributed to a qualified care plan pursuant to a salary reduction agreement to provide benefits under a dependent care assistance

1 program within the meaning of Section 129 of the Internal Revenue  
2 Code, as applicable, for purposes of Part 10 (commencing with  
3 Section 17001) and this part.

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

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

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

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

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

25 (f) If the credit allowed ~~under~~ by this section exceeds the “tax,”  
26 the excess may be carried over to reduce the “tax” in the following  
27 year, and *the* succeeding *seven* years if necessary, until the credit  
28 has been exhausted.

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

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

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

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

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

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

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

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

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

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

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

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

24 (m) This section shall remain in effect only until December 1,  
25 2021, and as of that date is repealed.

26 SEC. 5. This act provides for a tax levy within the meaning of  
27 Article IV of the Constitution and shall go into immediate effect.