

AMENDED IN SENATE MAY 4, 2016

**SENATE BILL**

**No. 1216**

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**Introduced by Senator Hueso**

February 18, 2016

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An act to add and repeal Sections 17053.75 and 23675 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1216, as amended, Hueso. Income taxes: credits: qualified employees.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including hiring credits within the specified economic development areas.

This bill would, under both laws for taxable years beginning on or after January 1, ~~2016~~, 2017, and before January 1, ~~2021~~, 2022, allow a credit against tax in an amount equal to 20% of qualified wages paid by a qualified taxpayer, as defined, to qualified employees, which includes persons between 18 and 25 years of age who complete a work readiness program, not to exceed \$15,000 per qualified taxpayer per taxable year.

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 17053.75 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.75. (a) (1) For each taxable year beginning on or after  
2 January 1, ~~2016~~, 2017, and before January 1, ~~2021~~, 2022, there  
3 shall be allowed to a qualified taxpayer that hires a qualified  
4 full-time employee and pays or incurs qualified wages attributable  
5 to work performed by the qualified full-time employee, and that  
6 receives a tentative credit reservation for that qualified full-time  
7 employee, a credit against the “net tax,” as defined in Section  
8 17039, in an amount calculated under this section.

9 (2) The amount of the credit allowable under this section for a  
10 taxable year shall be equal to 20 percent of all qualified wages  
11 paid or incurred to the qualified full-time employee, not to exceed  
12 ~~\$15,000~~ *fifteen thousand dollars (\$15,000)* per qualified taxpayer  
13 per taxable year.

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

18 (4) *If the taxpayer is allowed a credit pursuant to this section*  
19 *for qualified wages paid or incurred, another credit shall not be*  
20 *allowed to the taxpayer under this part with respect to any wage*  
21 *consisting in whole or in part of those qualified wages.*

22 (b) For purposes of this section:

23 (1) “Acquire” includes any gift, inheritance, transfer incident  
24 to divorce, or any other transfer, whether or not for consideration.

25 (2) “Job training provider” means an entity that delivers a  
26 combined job readiness and life-skills training program that, at a  
27 minimum, includes high school or continuing education courses.  
28 The entity’s program may also offer additional services like job  
29 placement, career and mental health counseling, prisoner reentry  
30 services, and relapse prevention and sober-living support.

31 (3) “Minimum wage” means the wage established pursuant to  
32 Chapter 1 (commencing with Section 1171) of Part 4 of Division  
33 2 of the Labor Code.

34 (4) (A) “Qualified full-time employee” means an individual  
35 who meets all of the following requirements:

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

38 (ii) Is hired by the qualified taxpayer on or after January 1, ~~2016~~.  
39 2017.

40 (iii) Satisfies either of the following conditions:

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

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

6 (iv) Is an ex-offender previously convicted of a felony who is,  
7 at the time of hiring, between 18 and 25 years of age and who  
8 demonstrates documented completion of a work readiness program.

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

13 (5) (A) “Qualified taxpayer” means a person or entity engaged  
14 in a trade or business within the state that, during the taxable year,  
15 pays or incurs qualified wages.

16 (B) In the case of any pass-thru entity, the determination of  
17 whether a taxpayer is a qualified taxpayer under this section shall  
18 be made at the entity level and any credit under this section or  
19 Section 23675 shall be allowed to the pass-thru entity and passed  
20 through to the partners and shareholders in accordance with  
21 applicable provisions of this part or Part 11 (commencing with  
22 Section 23001). For purposes of this subdivision, the term  
23 “pass-thru entity” means any partnership or “S” corporation.

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

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

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

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

38 (iv) Employers that are primarily engaged in services as  
39 described in Code 713210, 721120, or 722410 of the North

1 American Industry Classification System (NAICS) published by  
2 the United States Office of Management and Budget, 2012 edition.

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

4 (II) For purposes of this clause:

5 (ia) “Sexually oriented business” means a nightclub, bar,  
6 restaurant, or similar commercial enterprise that provides for an  
7 audience of two or more individuals live nude entertainment or  
8 live nude performances where the nudity is a function of everyday  
9 business operations and where nudity is a planned and intentional  
10 part of the entertainment or performance.

11 (ib) “Nude” means clothed in a manner that leaves uncovered  
12 or visible, through less than fully opaque clothing, any portion of  
13 the genitals or, in the case of a female, any portion of the breasts  
14 below the top of the areola of the breasts.

15 (6) “Qualified wages” means those wages that meet all of the  
16 following requirements:

17 (A) (i) That portion of wages paid or incurred by the qualified  
18 taxpayer during the taxable year to each qualified full-time  
19 employee that exceeds 150 percent of minimum wage, but does  
20 not exceed 350 percent of minimum wage.

21 (ii) (I) *In the case of a qualified full-time employee employed*  
22 *in a designated pilot area, that portion of wages paid or incurred*  
23 *by the qualified taxpayer during the taxable year to each qualified*  
24 *full-time employee that exceeds ten dollars (\$10) per hour or an*  
25 *equivalent amount for salaried employees, but does not exceed*  
26 *350 percent of minimum wage. For qualified full-time employees*  
27 *described in the preceding sentence, clause (i) of subparagraph*  
28 *(A) of paragraph (4) is modified by substituting “ten dollars (\$10)*  
29 *per hour or an equivalent amount for salaried employees” for*  
30 *“150 percent of the minimum wage.”*

31 (II) *For purposes of this clause, “designated pilot area” means*  
32 *an area designated as a designated pilot area by the Governor’s*  
33 *Office of Business and Economic Development, pursuant to*  
34 *Sections 17053.73 and 23626.*

35 (B) Wages paid or incurred during the 60-month period  
36 beginning with the first day the qualified full-time employee  
37 commences employment with the qualified taxpayer. In the case  
38 of any employee who is reemployed, including a regularly  
39 occurring seasonal increase, in the trade or business operations of  
40 the qualified taxpayer, this reemployment shall not be treated as

1 constituting commencement of employment for purposes of this  
2 section.

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

6 (8) “Work readiness program” means a program offered by a  
7 job training provider that provides vocational job training,  
8 educational opportunities, and life skills. A work readiness program  
9 shall focus on skills acquisition and educational advancement and  
10 shall foster behavioral changes that promote ~~person~~ *personal*  
11 responsibility and positive contributions to society. A work  
12 readiness program shall include all of the following:

13 (A) Paid or unpaid on-the-job training opportunities,  
14 preapprenticeship programs, vocational instruction, or internship  
15 placement.

16 (B) The opportunity for academic advancement.

17 (C) The opportunity to earn at least one industry recognized  
18 certification.

19 (D) A life-skills training component.

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

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

30 (2) To obtain a tentative credit reservation with respect to a  
31 qualified full-time employee, the qualified taxpayer shall provide  
32 necessary information, as determined by the Franchise Tax Board,  
33 including the name, social security number, the start date of  
34 employment, and the rate of pay of the qualified full-time  
35 employee.

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

1 by the Franchise Tax Board, including the name, social security  
2 number, start date of employment, and rate of pay for each qualified  
3 full-time employee employed by the qualified taxpayer.

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

9 (e) The Franchise Tax Board shall do all of the following:

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

12 (2) Determine the aggregate tentative reservation amount.

13 (3) Notwithstanding Section 19542, provide as a searchable  
14 database on its Internet Web site, for each taxable year beginning  
15 on or after January 1, ~~2016~~, 2017, and before January 1, ~~2021~~,  
16 2022, the employer names, amounts of tax credit claimed, and  
17 number of new jobs created for each taxable year pursuant to this  
18 section and Section 23675.

19 (f) For purposes of this section:

20 (1) All employees of trades or businesses that are not  
21 incorporated, and that are under common control, shall be treated  
22 as employed by a single taxpayer.

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

28 (3) Principles that apply in the case of controlled groups of  
29 corporations, as specified in subdivision (f) of Section 23675, shall  
30 apply with respect to determining employment.

31 ~~(5)~~

32 (4) If an employer acquires the major portion of a trade or  
33 business of another employer, hereinafter in this paragraph referred  
34 to as the predecessor, or the major portion of a separate unit of a  
35 trade or business of a predecessor, then, for purposes of applying  
36 this section, other than subdivision (g), for any taxable year ending  
37 after that acquisition, the employment relationship between a  
38 qualified full-time employee and an employer shall not be treated  
39 as terminated if the employee continues to be employed in that  
40 trade or business.

1 (g) (1) If the employment of any qualified full-time employee,  
2 with respect to whom qualified wages are taken into account under  
3 subdivision (a), is terminated by the qualified taxpayer at any time  
4 during the first 36 months after commencing employment with  
5 the qualified taxpayer, whether or not consecutive, the tax imposed  
6 by this part for the taxable year in which that employment is  
7 terminated shall be increased by an amount equal to the credit  
8 allowed under subdivision (a) for that taxable year and all prior  
9 taxable years attributable to qualified wages paid or incurred with  
10 respect to that employee.

11 (2) Paragraph (1) does not apply to any of the following:

12 (A) A termination of employment of a qualified full-time  
13 employee who voluntarily leaves the employment of the qualified  
14 taxpayer.

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

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

25 (D) A termination of employment of a qualified full-time  
26 employee due to a substantial reduction in the trade or business  
27 operations of the qualified taxpayer, including reductions due to  
28 seasonal employment.

29 (E) A termination of employment of a qualified full-time  
30 employee if that employee is replaced by other qualified full-time  
31 employees so as to create a net increase in both the number of  
32 employees and the hours of employment.

33 (F) A termination of employment of a qualified full-time  
34 employee when that employment is considered seasonal  
35 employment and the qualified employee is rehired on a seasonal  
36 basis.

37 (3) For purposes of paragraph (1), the employment relationship  
38 between the qualified taxpayer and a qualified full-time employee  
39 shall not be treated as terminated by reason of a mere change in  
40 the form of conducting the trade or business of the qualified

1 taxpayer if the qualified full-time employee continues to be  
2 employed in that trade or business and the qualified taxpayer retains  
3 a substantial interest in that trade or business.

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

7 (h) In the case of an estate or trust, both of the following apply:

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

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

14 (i) In the case in which the credit allowed by this section exceeds  
15 the “net tax,” the excess may be carried over to reduce the “net  
16 tax” in the following year, and the succeeding four years if  
17 necessary, until the credit is exhausted.

18 (j) The Franchise Tax Board may prescribe rules, guidelines,  
19 or procedures necessary or appropriate to carry out the purposes  
20 of this section, including any guidelines regarding the allocation  
21 of the credit allowed under this section. Chapter 3.5 (commencing  
22 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
23 Government Code shall not apply to any rule, guideline, or  
24 procedure prescribed by the Franchise Tax Board pursuant to this  
25 section.

26 (k) The Franchise Tax Board shall annually provide to the Joint  
27 Legislative Budget Committee, in compliance with Section 9795  
28 of the Government Code, by no later than March 1, a report of the  
29 total dollar amount of the credits claimed under this section with  
30 respect to the relevant fiscal year. The report shall compare the  
31 total dollar amount of credits claimed under this section with  
32 respect to that fiscal year with the department’s estimate with  
33 respect to that same fiscal year. If the total dollar amount of credits  
34 claimed for the fiscal year is less than the estimate for that fiscal  
35 year, the report shall identify options for increasing annual claims  
36 of the credit so as to meet estimated amounts.

37 (l) Section 41 shall not apply to the credit allowed by this  
38 section.

39 (m) This section shall remain in effect only until December 1,  
40 ~~2021~~, 2022, and as of that date is repealed.

1 SEC. 2. Section 23675 is added to the Revenue and Taxation  
2 Code, to read:

3 23675. (a) (1) For each taxable year beginning on or after  
4 January 1, ~~2016~~, 2017, and before January 1, ~~2021~~, 2022, there  
5 shall be allowed to a qualified taxpayer that hires a qualified  
6 full-time employee and pays or incurs qualified wages attributable  
7 to work performed by the qualified full-time employee, and that  
8 receives a tentative credit reservation for that qualified full-time  
9 employee, a credit against the ~~“net tax,”~~ “tax,” as defined in  
10 Section 23036, in an amount calculated under this section.

11 (2) The amount of the credit allowable under this section for a  
12 taxable year shall be equal to 20 percent of all qualified wages  
13 paid or incurred to the qualified full-time employee, not to exceed  
14 ~~\$15,000~~ *fifteen thousand dollars (\$15,000)* per qualified taxpayer  
15 per taxable year.

16 (3) The credit allowed by this section may be claimed only on  
17 a timely filed original return of the qualified taxpayer and only  
18 with respect to a qualified full-time employee for whom the  
19 qualified taxpayer has received a tentative credit reservation.

20 (4) *If the taxpayer is allowed a credit pursuant to this section*  
21 *for qualified wages paid or incurred, another credit shall not be*  
22 *allowed to the taxpayer under this part with respect to any wage*  
23 *consisting in whole or in part of those qualified wages.*

24 (b) For purposes of this section:

25 (1) “Acquire” includes any gift, inheritance, transfer incident  
26 to divorce, or any other transfer, whether or not for consideration.

27 (2) “Job training provider” means an entity that delivers a  
28 combined job readiness and life-skills training program that, at a  
29 minimum, includes high school or continuing education courses.  
30 The entity’s program may also offer additional services like job  
31 placement, career and mental health counseling, prisoner reentry  
32 services, and relapse prevention and sober-living support.

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

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

38 (i) Receives starting wages that are at least 150 percent of the  
39 minimum wage.

- 1 (ii) Is hired by the qualified taxpayer on or after January 1, ~~2016~~  
2 2017.
- 3 (iii) Satisfies either of the following conditions:
- 4 (I) Is paid qualified wages by the qualified taxpayer for services  
5 not less than an average of 35 hours per week.
- 6 (II) Is a salaried employee and was paid compensation during  
7 the taxable year for full-time employment, within the meaning of  
8 Section 515 of the Labor Code, by the qualified taxpayer.
- 9 (iv) Is an ex-offender previously convicted of a felony who is,  
10 at the time of hiring, between 18 and 25 years of age and who  
11 demonstrates documented completion of a work readiness program.
- 12 (B) An individual may be considered a qualified full-time  
13 employee only for the period of time commencing with the date  
14 the individual is first employed by the qualified taxpayer and  
15 ending 60 months thereafter.
- 16 (5) (A) “Qualified taxpayer” means a corporation engaged in  
17 a trade or business within the state that, during the taxable year,  
18 pays or incurs qualified wages.
- 19 (B) In the case of any pass-thru entity, the determination of  
20 whether a taxpayer is a qualified taxpayer under this section shall  
21 be made at the entity level and any credit under this section or  
22 Section 17053.75 shall be allowed to the pass-thru entity and  
23 passed through to the partners and shareholders in accordance with  
24 applicable provisions of this part or Part 10 (commencing with  
25 Section 17001). For purposes of this subdivision, the term  
26 “pass-thru entity” means any ~~partnership or “S” corporation~~  
27 *partnership*.
- 28 (C) “Qualified taxpayers” shall not include any of the following:
- 29 (i) Employers that provide temporary help services, as described  
30 in Code 561320 of the North American Industry Classification  
31 System (NAICS) published by the United States Office of  
32 Management and Budget, 2012 edition.
- 33 (ii) Employers that provide retail trade services, as described  
34 in Sector 44-45 of the North American Industry Classification  
35 System (NAICS) published by the United States Office of  
36 Management and Budget, 2012 edition.
- 37 (iii) Employers that are primarily engaged in providing food  
38 services, as described in Code 711110, 722511, 722513, 722514,  
39 or 722515 of the North American Industry Classification System

1 (NAICS) published by the United States Office of Management  
2 and Budget, 2012 edition.

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

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

8 (II) For purposes of this clause:

9 (ia) “Sexually oriented business” means a nightclub, bar,  
10 restaurant, or similar commercial enterprise that provides for an  
11 audience of two or more individuals live nude entertainment or  
12 live nude performances where the nudity is a function of everyday  
13 business operations and where nudity is a planned and intentional  
14 part of the entertainment or performance.

15 (ib) “Nude” means clothed in a manner that leaves uncovered  
16 or visible, through less than fully opaque clothing, any portion of  
17 the genitals or, in the case of a female, any portion of the breasts  
18 below the top of the areola of the breasts.

19 (6) “Qualified wages” means those wages that meet all of the  
20 following requirements:

21 (A) (i) That portion of wages paid or incurred by the qualified  
22 taxpayer during the taxable year to each qualified full-time  
23 employee that exceeds 150 percent of minimum wage, but does  
24 not exceed 350 percent of minimum wage.

25 (ii) (I) *In the case of a qualified full-time employee employed*  
26 *in a designated pilot area, that portion of wages paid or incurred*  
27 *by the qualified taxpayer during the taxable year to each qualified*  
28 *full-time employee that exceeds ten dollars (\$10) per hour or an*  
29 *equivalent amount for salaried employees, but does not exceed*  
30 *350 percent of minimum wage. For qualified full-time employees*  
31 *described in the preceding sentence, clause (i) of subparagraph*  
32 *(A) of paragraph (4) is modified by substituting “ten dollars (\$10)*  
33 *per hour or an equivalent amount for salaried employees” for*  
34 *“150 percent of the minimum wage.”*

35 (II) *For purposes of this clause, “designated pilot area” means*  
36 *an area designated as a designated pilot area by the Governor’s*  
37 *Office of Business and Economic Development, pursuant to*  
38 *Sections 17053.73 and 23626.*

39 (B) Wages paid or incurred during the 60-month period  
40 beginning with the first day the qualified full-time employee

1 commences employment with the qualified taxpayer. In the case  
2 of any employee who is reemployed, including a regularly  
3 occurring seasonal increase, in the trade or business operations of  
4 the qualified taxpayer, this reemployment shall not be treated as  
5 constituting commencement of employment for purposes of this  
6 section.

7 (7) “Seasonal employment” means employment by a qualified  
8 taxpayer that has regular and predictable substantial reductions in  
9 trade or business operations.

10 (8) “Work readiness program” means a program offered by a  
11 job training provider that provides vocational job training,  
12 educational opportunities, and life skills. A work readiness program  
13 shall focus on skills acquisition and educational advancement and  
14 shall foster behavioral changes that promote ~~person~~ *personal*  
15 responsibility and positive contributions to society. A work  
16 readiness program shall include all of the following:

17 (A) Paid or unpaid on-the-job training opportunities,  
18 preapprenticeship programs, vocational instruction, or internship  
19 placement.

20 (B) The opportunity for academic advancement.

21 (C) The opportunity to earn at least one industry recognized  
22 certification.

23 (D) A life-skills training component.

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

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

34 (2) To obtain a tentative credit reservation with respect to a  
35 qualified full-time employee, the qualified taxpayer shall provide  
36 necessary information, as determined by the Franchise Tax Board,  
37 including the name, social security number, the start date of  
38 employment, and the rate of pay of the qualified full-time  
39 employee.

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

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

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

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

17 (2) Determine the aggregate tentative reservation amount.

18 (3) Notwithstanding Section 19542, provide as a searchable  
19 database on its Internet Web site, for each taxable year beginning  
20 on or after January 1, ~~2016~~, 2017, and before January 1, ~~2021~~,  
21 2022, the employer names, amounts of tax credit claimed, and  
22 number of new jobs created for each taxable year pursuant to this  
23 section and Section 17053.75.

24 (f) (1) For purposes of this section:

25 (A) All employees of corporations that are members of the same  
26 controlled group of corporations shall be treated as employed by  
27 a single taxpayer.

28 (B) The credit, if any, allowable by this section to each member  
29 shall be determined by reference to its proportionate share of the  
30 expense of the qualified wages giving rise to the credit and shall  
31 be allocated in that manner.

32 (C) If a qualified taxpayer acquires the major portion of a trade  
33 or business of another taxpayer, hereinafter in this paragraph  
34 referred to as the predecessor, or the major portion of a separate  
35 unit of a trade or business of a predecessor, then, for purposes of  
36 applying this section, for any taxable year ending after that  
37 acquisition, the employment relationship between a qualified  
38 full-time employee and an qualified taxpayer shall not be treated  
39 as terminated if the employee continues to be employed in that  
40 trade or business.

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

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

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

10 (3) Rules similar to the rules provided in Sections 46(e) and  
11 46(h) of the Internal Revenue Code, as in effect on November 4,  
12 1990, shall apply to both of the following:

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

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

17 (g) (1) If the employment of any qualified full-time employee,  
18 with respect to whom qualified wages are taken into account under  
19 subdivision (a), is terminated by the qualified taxpayer at any time  
20 during the first 36 months after commencing employment with  
21 the qualified taxpayer, whether or not consecutive, the tax imposed  
22 by this part for the taxable year in which that employment is  
23 terminated shall be increased by an amount equal to the credit  
24 allowed under subdivision (a) for that taxable year and all prior  
25 taxable years attributable to qualified wages paid or incurred with  
26 respect to that employee.

27 (2) Paragraph (1) does not apply to any of the following:

28 (A) A termination of employment of a qualified full-time  
29 employee who voluntarily leaves the employment of the qualified  
30 taxpayer.

31 (B) A termination of employment of a qualified full-time  
32 employee who, before the close of the period referred to in  
33 paragraph (1), becomes disabled and unable to perform the services  
34 of that employment, unless that disability is removed before the  
35 close of that period and the qualified taxpayer fails to offer  
36 reemployment to that employee.

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

1 (D) A termination of employment of a qualified full-time  
2 employee due to a substantial reduction in the trade or business  
3 operations of the qualified taxpayer, including reductions due to  
4 seasonal employment.

5 (E) A termination of employment of a qualified full-time  
6 employee if that employee is replaced by other qualified full-time  
7 employees so as to create a net increase in both the number of  
8 employees and the hours of employment.

9 (F) A termination of employment of a qualified full-time  
10 employee when that employment is considered seasonal  
11 employment and the qualified employee is rehired on a seasonal  
12 basis.

13 (3) For purposes of paragraph (1), the employment relationship  
14 between the qualified taxpayer and a qualified full-time employee  
15 shall not be treated as terminated by reason of a mere change in  
16 the form of conducting the trade or business of the qualified  
17 taxpayer if the qualified full-time employee continues to be  
18 employed in that trade or business and the qualified taxpayer retains  
19 a substantial interest in that trade or business.

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

23 (h) In the case in which the credit allowed by this section  
24 exceeds the “tax,” the excess may be carried over to reduce the  
25 “tax” in the following year, and the succeeding four years if  
26 necessary, until the credit is exhausted.

27 (i) The Franchise Tax Board may prescribe rules, guidelines,  
28 or procedures necessary or appropriate to carry out the purposes  
29 of this section, including any guidelines regarding the allocation  
30 of the credit allowed under this section. Chapter 3.5 (commencing  
31 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
32 Government Code shall not apply to any rule, guideline, or  
33 procedure prescribed by the Franchise Tax Board pursuant to this  
34 section.

35 (j) The Franchise Tax Board shall annually provide to the Joint  
36 Legislative Budget Committee, in compliance with Section 9795  
37 of the Government Code, by no later than March 1, a report of the  
38 total dollar amount of the credits claimed under this section with  
39 respect to the relevant fiscal year. The report shall compare the  
40 total dollar amount of credits claimed under this section with

1 respect to that fiscal year with the department’s estimate with  
2 respect to that same fiscal year. If the total dollar amount of credits  
3 claimed for the fiscal year is less than the estimate for that fiscal  
4 year, the report shall identify options for increasing annual claims  
5 of the credit so as to meet estimated amounts.

6 (k) Section 41 shall not apply to the credit allowed by this  
7 section.

8 (l) This section shall remain in effect only until December 1,  
9 ~~2021~~, 2022, and as of that date is repealed.

10 SEC. 3. This act provides for a tax levy within the meaning of  
11 Article IV of the *California* Constitution and shall go into  
12 immediate effect.