

AMENDED IN ASSEMBLY JUNE 28, 2016

AMENDED IN SENATE MAY 4, 2016

SENATE BILL

No. 1216

Introduced by Senator Hueso

February 18, 2016

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. *Existing law requires any bill authorizing a new personal income tax or corporation tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements, as provided.*

~~This bill would, bill,~~ under both laws for taxable years beginning on or after January 1, 2017, and before January 1, 2022, *would* allow a credit against *the net tax or tax* in an amount equal to ~~20%~~ 23.5% of qualified wages paid by a qualified taxpayer, as defined, to qualified *full-time* employees, *as defined*, which ~~includes~~ *are* persons between 18 and 25 years of age who complete a work readiness program, *and meet other specified requirements*, not to exceed \$15,000 per qualified taxpayer per taxable ~~year~~ year, *as provided*. *The bill would also include that additional information required for any bill authorizing a new income tax credit.*

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:

3 17053.75. (a) (1) For each taxable year beginning on or after
4 January 1, 2017, and before January 1, 2022, there shall be allowed
5 to a qualified taxpayer that hires a qualified full-time employee
6 and pays or incurs qualified wages attributable to work performed
7 by the qualified full-time employee, and that receives a tentative
8 credit reservation for that qualified full-time employee, a credit
9 against the “net tax,” as defined in Section 17039, in an amount
10 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~~ 23.5 percent of all qualified wages
13 paid or incurred to the qualified full-time employee, not to exceed
14 fifteen thousand dollars (\$15,000) per qualified taxpayer per taxable
15 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.

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

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

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

8 (ii) Is hired by the qualified taxpayer on or after January 1, 2017.

9 (iii) Satisfies either of the following conditions:

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

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

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

18 (v) *Performs at least 50 percent of his or her services for the*
19 *qualified taxpayer during the taxable year in the state.*

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

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

27 (B) In the case of any pass-thru entity, the determination of
28 whether a taxpayer is a qualified taxpayer under this section shall
29 be made at the entity level and any credit under this section or
30 Section 23675 shall be allowed to the pass-thru entity and passed
31 through to the partners and shareholders in accordance with
32 applicable provisions of this part or Part 11 (commencing with
33 Section 23001). For purposes of this subdivision, the term
34 “pass-thru entity” means any partnership or “S” corporation.

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

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

- 1 (ii) Employers that provide retail trade services, as described
2 in Sector 44-45 of the North American Industry Classification
3 System (NAICS) published by the United States Office of
4 Management and Budget, 2012 edition.
- 5 (iii) Employers that are primarily engaged in providing food
6 services, as described in Code 711110, 722511, 722513, 722514,
7 or 722515 of the North American Industry Classification System
8 (NAICS) published by the United States Office of Management
9 and Budget, 2012 edition.
- 10 (iv) Employers that are primarily engaged in services as
11 described in Code 713210, 721120, or 722410 of the North
12 American Industry Classification System (NAICS) published by
13 the United States Office of Management and Budget, 2012 edition.
- 14 (v) (I) An employer that is a sexually oriented business.
15 (II) For purposes of this clause:
- 16 (ia) “Sexually oriented business” means a nightclub, bar,
17 restaurant, or similar commercial enterprise that provides for an
18 audience of two or more individuals live nude entertainment or
19 live nude performances where the nudity is a function of everyday
20 business operations and where nudity is a planned and intentional
21 part of the entertainment or performance.
- 22 (ib) “Nude” means clothed in a manner that leaves uncovered
23 or visible, through less than fully opaque clothing, any portion of
24 the genitals or, in the case of a female, any portion of the breasts
25 below the top of the areola of the breasts.
- 26 (6) “Qualified wages” means those wages that meet all of the
27 following requirements:
- 28 (A) (i) That portion of wages paid or incurred by the qualified
29 taxpayer during the taxable year to each qualified full-time
30 employee that exceeds 150 percent of minimum wage, but does
31 not exceed 350 percent of minimum wage.
- 32 (ii) (I) In the case of a qualified full-time employee ~~employed~~
33 *who provides services only* in a designated pilot area, that portion
34 of wages paid or incurred by the qualified taxpayer during the
35 taxable year to each qualified full-time employee that exceeds ten
36 dollars (\$10) per hour or an equivalent amount for salaried
37 employees, but does not exceed 350 percent of minimum wage.
38 For qualified full-time employees described in the preceding
39 sentence, clause (i) of subparagraph (A) of paragraph (4) is
40 modified by substituting “ten dollars (\$10) per hour or an

1 equivalent amount for salaried employees” for “150 percent of the
2 minimum wage.”

3 (II) For purposes of this clause, “designated pilot area” means
4 an area designated as a designated pilot area by the Governor’s
5 Office of Business and Economic Development, pursuant to
6 Sections 17053.73 and 23626.

7 (B) Wages paid or incurred during the 60-month period
8 beginning with the first day the qualified full-time employee
9 commences employment with the qualified taxpayer. In the case
10 of any employee who is reemployed, including a regularly
11 occurring seasonal increase, in the trade or business operations of
12 the qualified taxpayer, this reemployment shall not be treated as
13 constituting commencement of employment for purposes of this
14 section.

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

18 (8) “Work readiness program” means a program offered by a
19 job training provider that provides vocational job training,
20 educational opportunities, and life skills. A work readiness program
21 shall focus on skills acquisition and educational advancement and
22 shall foster behavioral changes that promote personal responsibility
23 and positive contributions to society. A work readiness program
24 shall include all of the following:

25 (A) Paid or unpaid on-the-job training opportunities,
26 preapprenticeship programs, vocational instruction, or internship
27 placement.

28 (B) The opportunity for academic advancement.

29 (C) The opportunity to earn at least one industry recognized
30 certification.

31 (D) A life-skills training component.

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

35 (d) (1) To be eligible for the credit allowed by this section, a
36 qualified taxpayer shall, upon hiring a qualified full-time employee,
37 request a tentative credit reservation from the Franchise Tax Board
38 within 30 days of complying with the Employment Development
39 Department’s new hire reporting requirements as provided in

1 Section 1088.5 of the Unemployment Insurance Code, in the form
2 and manner prescribed by the Franchise Tax Board.

3 (2) To obtain a tentative credit reservation with respect to a
4 qualified full-time employee, the qualified taxpayer shall provide
5 necessary information, as determined by the Franchise Tax Board,
6 including the name, social security number, the start date of
7 employment, and the rate of pay of the qualified full-time
8 employee.

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

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

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

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

25 (2) Determine the aggregate tentative reservation amount.

26 (3) Notwithstanding Section 19542, provide as a searchable
27 database on its Internet Web site, for each taxable year beginning
28 on or after January 1, 2017, and before January 1, 2022, the
29 employer names, amounts of tax credit claimed, and number of
30 new jobs created for each taxable year pursuant to this section and
31 Section 23675.

32 (f) For purposes of this section:

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

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

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

4 (4) If an employer acquires the major portion of a trade or
5 business of another employer, hereinafter in this paragraph referred
6 to as the predecessor, or the major portion of a separate unit of a
7 trade or business of a predecessor, then, for purposes of applying
8 this section, other than subdivision (g), for any taxable year ending
9 after that acquisition, the employment relationship between a
10 qualified full-time employee and an employer shall not be treated
11 as terminated if the employee continues to be employed in that
12 trade or business.

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

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

24 (A) A termination of employment of a qualified full-time
25 employee who voluntarily leaves the employment of the qualified
26 taxpayer.

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

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

37 (D) A termination of employment of a qualified full-time
38 employee due to a substantial reduction in the trade or business
39 operations of the qualified taxpayer, including reductions due to
40 seasonal employment.

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

5 (F) A termination of employment of a qualified full-time
6 employee when that employment is considered seasonal
7 employment and the qualified employee is rehired on a seasonal
8 basis.

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

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

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

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

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

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

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

38 (k) The Franchise Tax Board shall annually provide to the Joint
39 Legislative Budget Committee, in compliance with Section 9795
40 of the Government Code, by no later than March 1, a report of the

1 total dollar amount of the credits claimed under this section with
2 respect to the relevant fiscal year. The report shall compare the
3 total dollar amount of credits claimed under this section with
4 respect to that fiscal year with the department's estimate with
5 respect to that same fiscal year. If the total dollar amount of credits
6 claimed for the fiscal year is less than the estimate for that fiscal
7 year, the report shall identify options for increasing annual claims
8 of the credit so as to meet estimated amounts.

9 ~~(t) Section 41 shall not apply to the credit allowed by this~~
10 ~~section.~~

11 *(l) No deduction shall be allowed under this part for wages paid*
12 *or incurred in a taxable year to the extent that those wages are*
13 *qualified wages with respect to calculating a credit under this*
14 *section for that taxable year.*

15 (m) This section shall remain in effect only until December 1,
16 2022, and as of that date is repealed.

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

19 23675. (a) (1) For each taxable year beginning on or after
20 January 1, 2017, and before January 1, 2022, there shall be allowed
21 to a qualified taxpayer that hires a qualified full-time employee
22 and pays or incurs qualified wages attributable to work performed
23 by the qualified full-time employee, and that receives a tentative
24 credit reservation for that qualified full-time employee, a credit
25 against the "tax," as defined in Section 23036, in an amount
26 calculated under this section.

27 (2) The amount of the credit allowable under this section for a
28 taxable year shall be equal to ~~20~~ 23.5 percent of all qualified wages
29 paid or incurred to the qualified full-time employee, not to exceed
30 fifteen thousand dollars (\$15,000) per qualified taxpayer per taxable
31 year.

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

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

40 (b) For purposes of this section:

- 1 (1) “Acquire” includes any gift, inheritance, transfer incident
2 to divorce, or any other transfer, whether or not for consideration.
- 3 (2) “Job training provider” means an entity that delivers a
4 combined job readiness and life-skills training program that, at a
5 minimum, includes high school or continuing education courses.
6 The entity’s program may also offer additional services like job
7 placement, career and mental health counseling, prisoner reentry
8 services, and relapse prevention and sober-living support.
- 9 (3) “Minimum wage” means the wage established pursuant to
10 Chapter 1 (commencing with Section 1171) of Part 4 of Division
11 2 of the Labor Code.
- 12 (4) (A) “Qualified full-time employee” means an individual
13 who meets all of the following requirements:
- 14 (i) Receives starting wages that are at least 150 percent of the
15 minimum wage.
- 16 (ii) Is hired by the qualified taxpayer on or after January 1, 2017.
- 17 (iii) Satisfies either of the following conditions:
- 18 (I) Is paid qualified wages by the qualified taxpayer for services
19 not less than an average of 35 hours per week.
- 20 (II) Is a salaried employee and was paid compensation during
21 the taxable year for full-time employment, within the meaning of
22 Section 515 of the Labor Code, by the qualified taxpayer.
- 23 (iv) Is an ex-offender previously convicted of a felony who is,
24 at the time of hiring, between 18 and 25 years of age and who
25 demonstrates documented completion of a work readiness program.
- 26 (v) *Performs at least 50 percent of his or her services for the*
27 *qualified taxpayer during the taxable year in the state.*
- 28 (B) An individual may be considered a qualified full-time
29 employee only for the period of time commencing with the date
30 the individual is first employed by the qualified taxpayer and
31 ending 60 months thereafter.
- 32 (5) (A) “Qualified taxpayer” means a corporation engaged in
33 a trade or business within the state that, during the taxable year,
34 pays or incurs qualified wages.
- 35 (B) In the case of any pass-thru entity, the determination of
36 whether a taxpayer is a qualified taxpayer under this section shall
37 be made at the entity level and any credit under this section or
38 Section 17053.75 shall be allowed to the pass-thru entity and
39 passed through to the partners and shareholders in accordance with
40 applicable provisions of this part or Part 10 (commencing with

1 Section 17001). For purposes of this subdivision, the term
2 “pass-thru entity” means any partnership.

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

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

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

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

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

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

22 (II) For purposes of this clause:

23 (ia) “Sexually oriented business” means a nightclub, bar,
24 restaurant, or similar commercial enterprise that provides for an
25 audience of two or more individuals live nude entertainment or
26 live nude performances where the nudity is a function of everyday
27 business operations and where nudity is a planned and intentional
28 part of the entertainment or performance.

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

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

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

39 (ii) (I) In the case of a qualified full-time employee ~~employed~~
40 *who provides services only* in a designated pilot area, that portion

1 of wages paid or incurred by the qualified taxpayer during the
2 taxable year to each qualified full-time employee that exceeds ten
3 dollars (\$10) per hour or an equivalent amount for salaried
4 employees, but does not exceed 350 percent of minimum wage.
5 For qualified full-time employees described in the preceding
6 sentence, clause (i) of subparagraph (A) of paragraph (4) is
7 modified by substituting “ten dollars (\$10) per hour or an
8 equivalent amount for salaried employees” for “150 percent of the
9 minimum wage.”

10 (II) For purposes of this clause, “designated pilot area” means
11 an area designated as a designated pilot area by the Governor’s
12 Office of Business and Economic Development, pursuant to
13 Sections 17053.73 and 23626.

14 (B) Wages paid or incurred during the 60-month period
15 beginning with the first day the qualified full-time employee
16 commences employment with the qualified taxpayer. In the case
17 of any employee who is reemployed, including a regularly
18 occurring seasonal increase, in the trade or business operations of
19 the qualified taxpayer, this reemployment shall not be treated as
20 constituting commencement of employment for purposes of this
21 section.

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

25 (8) “Work readiness program” means a program offered by a
26 job training provider that provides vocational job training,
27 educational opportunities, and life skills. A work readiness program
28 shall focus on skills acquisition and educational advancement and
29 shall foster behavioral changes that promote personal responsibility
30 and positive contributions to society. A work readiness program
31 shall include all of the following:

32 (A) Paid or unpaid on-the-job training opportunities,
33 preapprenticeship programs, vocational instruction, or internship
34 placement.

35 (B) The opportunity for academic advancement.

36 (C) The opportunity to earn at least one industry recognized
37 certification.

38 (D) A life-skills training component.

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

4 (d) (1) To be eligible for the credit allowed by this section, a
5 qualified taxpayer shall, upon hiring a qualified full-time employee,
6 request a tentative credit reservation from the Franchise Tax Board
7 within 30 days of complying with the Employment Development
8 Department's new hire reporting requirements as provided in
9 Section 1088.5 of the Unemployment Insurance Code, in the form
10 and manner prescribed by the Franchise Tax Board.

11 (2) To obtain a tentative credit reservation with respect to a
12 qualified full-time employee, the qualified taxpayer shall provide
13 necessary information, as determined by the Franchise Tax Board,
14 including the name, social security number, the start date of
15 employment, and the rate of pay of the qualified full-time
16 employee.

17 (3) The qualified taxpayer shall provide the Franchise Tax Board
18 an annual certification of employment with respect to each
19 qualified full-time employee hired in a previous taxable year, on
20 or before, the 15th day of the third month of the taxable year. The
21 certification shall include necessary information, as determined
22 by the Franchise Tax Board, including the name, social security
23 number, start date of employment, and rate of pay for each qualified
24 full-time employee employed by the qualified taxpayer.

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

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

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

33 (2) Determine the aggregate tentative reservation amount.

34 (3) Notwithstanding Section 19542, provide as a searchable
35 database on its Internet Web site, for each taxable year beginning
36 on or after January 1, 2017, and before January 1, 2022, the
37 employer names, amounts of tax credit claimed, and number of
38 new jobs created for each taxable year pursuant to this section and
39 Section 17053.75.

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

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

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

8 (C) If a qualified taxpayer acquires the major portion of a trade
9 or business of another taxpayer, hereinafter in this paragraph
10 referred to as the predecessor, or the major portion of a separate
11 unit of a trade or business of a predecessor, then, for purposes of
12 applying this section, for any taxable year ending after that
13 acquisition, the employment relationship between a qualified
14 full-time employee and an qualified taxpayer shall not be treated
15 as terminated if the employee continues to be employed in that
16 trade or business.

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

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

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

26 (3) Rules similar to the rules provided in Sections 46(e) and
27 46(h) of the Internal Revenue Code, as in effect on November 4,
28 1990, shall apply to both of the following:

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

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

33 (g) (1) If the employment of any qualified full-time employee,
34 with respect to whom qualified wages are taken into account under
35 subdivision (a), is terminated by the qualified taxpayer at any time
36 during the first 36 months after commencing employment with
37 the qualified taxpayer, whether or not consecutive, the tax imposed
38 by this part for the taxable year in which that employment is
39 terminated shall be increased by an amount equal to the credit
40 allowed under subdivision (a) for that taxable year and all prior

1 taxable years attributable to qualified wages paid or incurred with
2 respect to that employee.

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

4 (A) A termination of employment of a qualified full-time
5 employee who voluntarily leaves the employment of the qualified
6 taxpayer.

7 (B) A termination of employment of a qualified full-time
8 employee who, before the close of the period referred to in
9 paragraph (1), becomes disabled and unable to perform the services
10 of that employment, unless that disability is removed before the
11 close of that period and the qualified taxpayer fails to offer
12 reemployment to that employee.

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

17 (D) A termination of employment of a qualified full-time
18 employee due to a substantial reduction in the trade or business
19 operations of the qualified taxpayer, including reductions due to
20 seasonal employment.

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

25 (F) A termination of employment of a qualified full-time
26 employee when that employment is considered seasonal
27 employment and the qualified employee is rehired on a seasonal
28 basis.

29 (3) For purposes of paragraph (1), the employment relationship
30 between the qualified taxpayer and a qualified full-time employee
31 shall not be treated as terminated by reason of a mere change in
32 the form of conducting the trade or business of the qualified
33 taxpayer if the qualified full-time employee continues to be
34 employed in that trade or business and the qualified taxpayer retains
35 a substantial interest in that trade or business.

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

39 (h) In the case in which the credit allowed by this section
40 exceeds the “tax,” the excess may be carried over to reduce the

1 “tax” in the following year, and the succeeding four years if
2 necessary, until the credit is exhausted.

3 (i) The Franchise Tax Board may prescribe rules, guidelines,
4 or procedures necessary or appropriate to carry out the purposes
5 of this section, including any guidelines regarding the allocation
6 of the credit allowed under this section. Chapter 3.5 (commencing
7 with Section 11340) of Part 1 of Division 3 of Title 2 of the
8 Government Code shall not apply to any rule, guideline, or
9 procedure prescribed by the Franchise Tax Board pursuant to this
10 section.

11 (j) The Franchise Tax Board shall annually provide to the Joint
12 Legislative Budget Committee, in compliance with Section 9795
13 of the Government Code, by no later than March 1, a report of the
14 total dollar amount of the credits claimed under this section with
15 respect to the relevant fiscal year. The report shall compare the
16 total dollar amount of credits claimed under this section with
17 respect to that fiscal year with the department’s estimate with
18 respect to that same fiscal year. If the total dollar amount of credits
19 claimed for the fiscal year is less than the estimate for that fiscal
20 year, the report shall identify options for increasing annual claims
21 of the credit so as to meet estimated amounts.

22 ~~(k) Section 41 shall not apply to the credit allowed by this~~
23 ~~section.~~

24 *(k) No deduction shall be allowed under this part for wages*
25 *paid or incurred in a taxable year to the extent that those wages*
26 *are qualified wages with respect to calculating a credit under this*
27 *section for that taxable year.*

28 (l) This section shall remain in effect only until December 1,
29 2022, and as of that date is repealed.

30 *SEC. 3. For purposes of complying with Section 41 of the*
31 *Revenue and Taxation Code, relating to Sections 17053.75 and*
32 *23675 of the Revenue and Taxation Code, the Legislature finds*
33 *and declares as follows:*

34 *(a) Specific goals, purposes, and objectives: Provide an*
35 *economic incentive for qualified employers to hire qualified*
36 *employees, which includes persons between 18 and 25 years of*
37 *age who have felony convictions and have completed a work*
38 *readiness program, in an effort to help them overcome barriers*
39 *to employment and promote their successful transition back into*
40 *society.*

1 **(b) Performance indicators:** *The Franchise Tax Board shall*
2 *annually report to the Joint Legislative Budget Committee the total*
3 *dollar amount of the credits claimed under Sections 17053.75 and*
4 *23675 of the Revenue and Taxation Code with respect to the*
5 *relevant fiscal year, as well as the growth or decline of credits*
6 *claimed under these sections each successive fiscal year from*
7 *January 1, 2017, to January 1, 2022, so that the Legislature can*
8 *monitor the overall progress of the economic incentive.*

9 ~~SEC. 3.~~

10 SEC. 4. 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.