

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 28, 2016

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. 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, 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 23.5% of qualified wages paid by a qualified taxpayer, as defined, to qualified full-time employees, as defined, which 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, 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 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 *qualified* taxpayer is allowed a credit pursuant to this  
 21 section for qualified wages paid or incurred, another credit shall  
 22 not be allowed to the *qualified* taxpayer under this part with respect  
 23 to any wage 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 *or services to connect individuals to high school or continuing*  
 31 *education* courses. The entity’s program may also offer additional  
 32 services like job placement, career and mental health counseling,

1 prisoner reentry services, and relapse prevention and sober-living  
2 support.

3 (3) “Minimum wage” means the wage established pursuant to  
4 Chapter 1 (commencing with Section 1171) of Part 4 of Division  
5 2 of the Labor Code.

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

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

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

11 (iii) Satisfies either of the following conditions:

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

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

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

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

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

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

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

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

38 (i) Employers that provide temporary help services, as described  
39 in Code 561320 of the North American Industry Classification

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

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

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

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

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

17 (II) For purposes of this clause:

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

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

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

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

34 (ii) (I) In the case of a qualified full-time employee who  
35 provides services only in a designated pilot area, that portion of  
36 wages paid or incurred by the qualified taxpayer during the taxable  
37 year to each qualified full-time employee that exceeds ten dollars  
38 (\$10) per hour or an equivalent amount for salaried employees,  
39 but does not exceed 350 percent of minimum wage. For qualified  
40 full-time employees described in the preceding sentence, clause

1 (i) of subparagraph (A) of paragraph (4) is modified by substituting  
2 “ten dollars (\$10) per hour or an equivalent amount for salaried  
3 employees” for “150 percent of the minimum wage.”

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

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

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

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

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

29 (B) The opportunity for academic advancement.

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

32 (D) A life-skills training component.

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

36 (d) (1) To be eligible for the credit allowed by this section, a  
37 qualified taxpayer shall, upon hiring a qualified full-time employee,  
38 request a tentative credit reservation from the Franchise Tax Board  
39 within 30 days of complying with the Employment Development  
40 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 (l) No deduction shall be allowed under this part for wages paid  
10 or incurred in a taxable year to the extent that those wages are  
11 qualified wages with respect to calculating a credit under this  
12 section for that taxable year.

13 (m) This section shall remain in effect only until December 1,  
14 2022, and as of that date is repealed.

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

17 23675. (a) (1) For each taxable year beginning on or after  
18 January 1, 2017, and before January 1, 2022, there shall be allowed  
19 to a qualified taxpayer that hires a qualified full-time employee  
20 and pays or incurs qualified wages attributable to work performed  
21 by the qualified full-time employee, and that receives a tentative  
22 credit reservation for that qualified full-time employee, a credit  
23 against the "tax," as defined in Section 23036, in an amount  
24 calculated under this section.

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

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

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

38 (b) For purposes of this section:

39 (1) "Acquire" includes any gift, inheritance, transfer incident  
40 to divorce, or any other transfer, whether or not for consideration.

1 (2) “Job training provider” means an entity that delivers a  
2 combined job readiness and life-skills training program that, at a  
3 minimum, includes high school or continuing education *courses*  
4 *or services to connect individuals to high school or continuing*  
5 *education* courses. The entity’s program may also offer additional  
6 services like job placement, career and mental health counseling,  
7 prisoner reentry services, and relapse prevention and sober-living  
8 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 who  
40 provides services only in a designated pilot area, that portion of

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

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

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

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

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

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

34 (B) The opportunity for academic advancement.

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

37 (D) A life-skills training component.

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

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

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

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

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

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

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

30 (2) Determine the aggregate tentative reservation amount.

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

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

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

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

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

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

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

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

23 (3) Rules similar to the rules provided in Sections 46(e) and  
24 46(h) of the Internal Revenue Code, as in effect on November 4,  
25 1990, shall apply to both of the following:

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

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

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

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

1 (A) A termination of employment of a qualified full-time  
2 employee who voluntarily leaves the employment of the qualified  
3 taxpayer.

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

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

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

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

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

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

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

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

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

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

20 (k) No deduction shall be allowed under this part for wages paid  
21 or incurred in a taxable year to the extent that those wages are  
22 qualified wages with respect to calculating a credit under this  
23 section for that taxable year.

24 (l) This section shall remain in effect only until December 1,  
25 2022, and as of that date is repealed.

26 SEC. 3. For purposes of complying with Section 41 of the  
27 Revenue and Taxation Code, relating to Sections 17053.75 and  
28 23675 of the Revenue and Taxation Code, the Legislature finds  
29 and declares as follows:

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

37 (b) Performance indicators: The Franchise Tax Board shall  
38 annually report to the Joint Legislative Budget Committee the total  
39 dollar amount of the credits claimed under Sections 17053.75 and  
40 23675 of the Revenue and Taxation Code with respect to the



1 relevant fiscal year, as well as the growth or decline of credits  
2 claimed under these sections each successive fiscal year from  
3 January 1, 2017, to January 1, 2022, so that the Legislature can  
4 monitor the overall progress of the economic incentive. *The report*  
5 *shall be submitted in compliance with Section 9795 of the*  
6 *Government Code.*

7 SEC. 4. This act provides for a tax levy within the meaning of  
8 Article IV of the California Constitution and shall go into  
9 immediate effect.

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