

AMENDED IN ASSEMBLY AUGUST 19, 2016

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**

*(Coauthor: Assembly Member Frazier)*

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.~~ *An act to amend Sections 2192 and 2192.2 of the Streets and Highways Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1216, as amended, Hueso. ~~Income taxes: credits: qualified employees.~~ *Trade Corridors Improvement Fund: federal funds.*

*The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund (TCIF) and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement, and specified categories of projects eligible to receive these funds. Existing law continues the TCIF in existence in order to receive revenues from sources other than the bond act for these purposes.*

*This bill would require revenues apportioned to the state from the National Highway Freight Program established by the federal Fixing*

*America's Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.*

*Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.*

*This bill would delete consideration of the State Air Resources Board's Sustainable Freight Strategy and the statewide port master plan and would instead include consideration of the applicable port master plan and, for the nonfederal funds, the California Sustainable Freight Action Plan when determining eligible projects for funding. The bill would also expand eligible projects to include rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements. The bill would authorize the commission to revise the guidelines adopted in 2007 for the TCIF and would require the commission to allocate funds to projects pursuant to the guidelines, but would require the commission to allocate the above-referenced federal funds consistent with the original guidelines adopted in 2007, as specified.*

~~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 2192 of the Streets and Highways Code*  
2 *is amended to read:*

3     2192. (a) (1) ~~The Trade Corridors Improvement Fund, Fund~~  
4 ~~(TCIF), created pursuant to subdivision (c) of Section 8879.23 of~~  
5 ~~the Government Code, is hereby continued in existence to receive~~  
6 ~~revenues from state sources other than the Highway Safety, Traffic~~  
7 ~~Reduction, Air Quality, and Port Security Bond Act of 2006. This~~  
8 ~~chapter shall govern expenditure of those other revenues.~~

9     (2) *Revenues apportioned to the state under Section 167 of Title*  
10 *23 of the United States Code from the National Highway Freight*  
11 *Program, pursuant to the federal Fixing America’s Surface*  
12 *Transportation Act (“FAST Act”; Public Law 114-94) shall be*  
13 *allocated for projects approved pursuant to this chapter.*

14     (b) *This chapter shall govern expenditure of those state and*  
15 *federal revenues described in subdivision (a).*

16     ~~(b)~~

17     (c) ~~The moneys funding described in the fund from those other~~  
18 ~~sources subdivision (a) shall be available upon appropriation for~~  
19 ~~allocation by the California Transportation Commission for~~  
20 ~~infrastructure improvements in this state on federally designated~~  
21 ~~Trade Corridors of National and Regional Significance, on the~~  
22 ~~Primary Freight Network, and along other corridors that have a~~  
23 ~~high volume of freight movement, as determined by the~~  
24 ~~commission. In determining the projects eligible for funding,~~  
25 ~~funding pursuant to paragraphs (1) and (2) of subdivision (a), the~~  
26 ~~commission shall consult the Transportation Agency’s state freight~~  
27 ~~plan as described in Section 13978.8 of the Government Code, the~~  
28 ~~State Air Resources Board’s Sustainable Freight Strategy adopted~~  
29 ~~by Resolution 14-2, and the trade infrastructure and goods~~  
30 ~~movement plan submitted to the commission by the Secretary of~~  
31 ~~Transportation and the Secretary for Environmental Protection.~~  
32 ~~The commission shall also consult trade infrastructure and goods~~  
33 ~~movement plans adopted by regional transportation planning~~  
34 ~~agencies, adopted regional transportation plans required by state~~  
35 ~~and federal law, and the statewide applicable port master plan~~  
36 ~~prepared by plan. In determining the California Marine and~~  
37 ~~Intermodal Transportation System Advisory Council~~  
38 ~~(Cal-MITSAC) projects eligible for funding pursuant to Section~~

1 ~~1730~~ paragraph (1) of subdivision (a), the Harbors and Navigation  
2 Code, when determining eligible projects for funding, commission  
3 shall also consult the California Sustainable Freight Action Plan.

4 Eligible projects for ~~these funds~~ the funding described in  
5 subdivision (a) include, but are not limited to, all of the following:

6 (1) Highway capacity improvements, rail landside access  
7 improvements, landside freight access improvements to airports,  
8 and operational improvements to more efficiently accommodate  
9 the movement of freight, particularly for ingress and egress to and  
10 from the state's land ports of ~~entry~~ entry, rail terminals, and  
11 seaports, including navigable inland waterways used to transport  
12 freight between seaports, land ports of entry, and airports, and to  
13 relieve traffic congestion along major trade or goods movement  
14 corridors.

15 (2) Freight rail system improvements to enhance the ability to  
16 move goods from seaports, land ports of entry, and airports to  
17 warehousing and distribution centers throughout California,  
18 including projects that separate rail lines from highway or local  
19 road traffic, improve freight rail mobility through mountainous  
20 regions, relocate rail switching yards, and other projects that  
21 improve the efficiency and capacity of the rail freight system.

22 (3) Projects to enhance the capacity and efficiency of ports.

23 (4) Truck corridor *and capital and operational* improvements,  
24 including dedicated truck facilities or truck toll facilities.

25 (5) Border ~~access~~ *capital and operational* improvements that  
26 enhance goods movement between California and Mexico and that  
27 maximize the state's ability to access ~~coordinated border~~  
28 infrastructure funds made available to the state by federal law.

29 (6) Surface transportation and connector road improvements to  
30 effectively facilitate the movement of goods, particularly for  
31 ingress and egress to and from the state's land ports of entry,  
32 airports, and seaports, to relieve traffic congestion along major  
33 trade or goods movement corridors.

34 (e)

35 (d) (1) ~~The~~ Except as provided in paragraph (2), the  
36 commission shall allocate ~~funds~~ the funding described in  
37 subdivision (a) for trade infrastructure improvements ~~from the~~  
38 fund consistent with Section 8879.52 of the Government Code and  
39 the Trade Corridors Improvement Fund (TCIF) TCIF Guidelines  
40 adopted by the commission on November 27, 2007, or as amended

1 by the commission, and in a manner that (A) addresses the state’s  
2 most urgent needs, (B) balances the demands of various land ports  
3 of entry, seaports, and airports, (C) provides reasonable geographic  
4 balance between the state’s regions, ~~and~~ (D) places emphasis on  
5 projects that improve trade corridor mobility *and safety* while  
6 reducing emissions of diesel particulate and other pollutant  
7 ~~emissions~~; *emissions, and reducing other negative community*  
8 *impacts, and (E) makes a significant contribution to the state’s*  
9 *economy.*

10 (2) *The commission shall allocate the federal freight funding,*  
11 *specifically, consistent with the original TCIF Guidelines, as*  
12 *adopted by the commission on November 27, 2007, and in the*  
13 *manner described in subparagraphs (A) to (E), inclusive, of*  
14 *paragraph (1). In allocating funding pursuant to the original TCIF*  
15 *Guidelines, the commission shall appropriately revise the dates*  
16 *in those guidelines.*

17 ~~(2)~~

18 (3) In addition, the commission shall also consider the following  
19 factors when allocating these funds:

20 (A) “Velocity,” which means the speed by which large cargo  
21 would travel from the land port of entry or seaport through the  
22 distribution system.

23 (B) “Throughput,” which means the volume of cargo that would  
24 move from the land port of entry or seaport through the distribution  
25 system.

26 (C) “Reliability,” which means a reasonably consistent and  
27 predictable amount of time for cargo to travel from one point to  
28 another on any given day or at any given time in California.

29 (D) “Congestion reduction,” which means the reduction in  
30 recurrent daily hours of delay to be achieved.

31 *SEC. 2. Section 2192.2 of the Streets and Highways Code is*  
32 *amended to read:*

33 2192.2. The commission shall allocate funds made available  
34 by this chapter to projects that have identified and committed  
35 supplemental funding from appropriate local, federal, or private  
36 sources. The commission shall determine the appropriate amount  
37 of supplemental funding each project should have to be eligible  
38 for moneys ~~from the fund~~ based on a project-by-project review  
39 and an assessment of the project’s benefit to the state and the  
40 program. ~~Except for border access Funded improvements described~~

1 in paragraph (5) of subdivision (b) of Section 2192, improvements  
2 funded with moneys from the fund shall have supplemental funding  
3 that is at least equal to the amount of the contribution from the  
4 fund. *under this chapter.* The commission may give priority for  
5 funding to projects with higher levels of committed supplemental  
6 funding.

7 SECTION 1. ~~Section 17053.75 is added to the Revenue and~~  
8 ~~Taxation Code, to read:~~

9 17053.75. (a) (1) ~~For each taxable year beginning on or after~~  
10 ~~January 1, 2017, and before January 1, 2022, there shall be allowed~~  
11 ~~to a qualified taxpayer that hires a qualified full-time employee~~  
12 ~~and pays or incurs qualified wages attributable to work performed~~  
13 ~~by the qualified full-time employee, and that receives a tentative~~  
14 ~~credit reservation for that qualified full-time employee, a credit~~  
15 ~~against the “net tax,” as defined in Section 17039, in an amount~~  
16 ~~calculated under this section.~~

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

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

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

30 (b) ~~For purposes of this section:~~

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

33 (2) ~~“Job training provider” means an entity that delivers a~~  
34 ~~combined job readiness and life-skills training program that, at a~~  
35 ~~minimum, includes high school or continuing education courses~~  
36 ~~or services to connect individuals to high school or continuing~~  
37 ~~education courses. The entity’s program may also offer additional~~  
38 ~~services like job placement, career and mental health counseling,~~  
39 ~~prisoner reentry services, and relapse prevention and sober-living~~  
40 ~~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 who~~  
33 ~~provides services only in a designated pilot area, that portion of~~  
34 ~~wages paid or incurred by the qualified taxpayer during the taxable~~  
35 ~~year to each qualified full-time employee that exceeds ten dollars~~  
36 ~~(\$10) per hour or an equivalent amount for salaried employees,~~  
37 ~~but does not exceed 350 percent of minimum wage. For qualified~~  
38 ~~full-time employees described in the preceding sentence, clause~~  
39 ~~(i) of subparagraph (A) of paragraph (4) is modified by substituting~~



1 “ten dollars (\$10) per hour or an equivalent amount for salaried  
2 employees” for “150 percent of the minimum wage.”

3 (H) 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 (e) 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 (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 (H) 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 (e) 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.

O