Date of Hearing: May 5, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 231 (Ta) – As Introduced January 13, 2025

SUSPENSE

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Income and corporation taxes: credits: work opportunity credit

SUMMARY: Allows businesses with fewer than five employees, under the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law, a credit equal to 40% of the wages paid to an employee who has previously been convicted of a felony, as specified. Specifically, **this bill**:

1) Allows, for taxable years beginning on or after January 1, 2026, and before January 1, 2031, a credit for "qualified employers", equal to 40% of the "qualified first-year wages" paid or incurred to a "qualified employee", not to exceed $5,000 in any taxable year.

2) Defines a "qualified taxpayer" as a taxpayer with fewer than five employees that pays "qualified first-year wages" to a "qualified employee".

3) Defines a "qualified employee" as an individual who satisfies all of the following conditions:

   a) Is employed by the qualified taxpayer during the taxable year;

   b) Has worked for the qualified taxpayer for at least six months;

   c) Has been convicted of a felony under Federal or state law;

   d) Is employed by the qualified taxpayer to perform services within California; and,

   e) Has a hiring date that is less than one year after the date the individual was convicted or released from prison.

4) Defines "qualified first-year wages" as wages paid or incurred to a qualified employee within the one-year period beginning on the date the qualified employee begins performing services for the qualified taxpayer. Specifically:

   a) Provides that "qualified first-year wages" do not include:

      i) Amounts paid to an individual for whom the qualified taxpayer receives federally funded payments for on-the-job training; and,

      ii) Amounts paid to an individual for services that are the same as, or substantially similar to, those services performed by employees participating in, or affected by, a strike or lockout during the period of that strike or lockout.

b) Provides that any deduction otherwise allowed for wages paid or incurred by the qualified taxpayer to the qualified employee shall be reduced by the amount of the credit allowed.

5) Finds and declares the following for purposes of satisfying the requirements of Revenue and Taxation Code (R&TC) Section 41:

a) The specific goals, purposes, and objectives of this bill are to reduce recidivism rates by reducing unemployment among recently released ex-felons; and,

b) To measure whether this bill achieves its intended purpose, the Franchise Tax Board (FTB) shall submit a written report to the Legislature summarizing the number of taxpayers claiming the credit and the average dollar value of credits allowed.

6) Takes immediate effect as a tax levy.

7) Sunsets the credit's statutory provisions on December 1, 2031.

EXISTING FEDERAL LAW provides the Work Opportunity Tax Credit (WOTC), which allows employers to claim a tax credit for hiring workers that are "members of targeted groups", which includes individuals who have been convicted of a felony under state or federal law and were hired within one year of either the individual's conviction or release from prison. The credit amount is calculated as a percentage of the eligible employee's wages during the first year of the eligible employee's employment, up to a statutory maximum, which depends on the worker's specific characteristics. (Internal Revenue Code Section 51(a).)

EXISTING STATE LAW:

1) Establishes the New Employment Credit (NEC), under the PIT Law and CT Law, which allows a credit to a "qualified taxpayer" that does all of the following:

a) Hires a "qualified full-time employee";

b) Receives a credit reservation for that employee;

c) Pays "qualified wages" for work performed by that employee in a designated census tract or economic development area, unless otherwise specified; and,

d) Reports the credit on a timely filed original return. (R&TC Sections 17053.73 and 23626).

2) Defines a "qualified taxpayer" as a person or entity engaged in a trade or business within a designated census tract or economic development area that, during the taxable year, pays or incurs qualified wages, unless otherwise provided.

3) Defines a "qualified full-time employee" as an individual, unless otherwise specified, that meets the following requirements:

a) Performs at least 50% of their services for the qualified taxpayer during the taxable year in a designated census tract or economic development area;

b) Receives starting wages that are at least 150% of minimum wage;

c) Is paid qualified wages for not less than an average of 35 hours per week or 40 hours per week if they are a salaried employee; and,

d) Satisfies at least one of the following conditions at the time of hire:

i) Was unemployed for the six months immediately preceding employment with the qualified taxpayer;

ii) Is a veteran who separated from service in the Armed Forces of the United States within the 12 months preceding commencement of employment with the qualified taxpayer;

iii) Received the Federal Earned Income Tax Credit (EITC) in the previous taxable year;

iv) Is an ex-offender previously convicted of a felony; or,

v) Is currently receiving either CalWORKs or county general assistance.

4) Defines "qualified wages" as wages that are the portion of wages paid or incurred by the qualified taxpayer during the taxable year to each qualified full-time employee that exceeds 150% of minimum wage, but does not exceed 350% of minimum wage.

5) Defines a "designated census tract" as a census tract within the state that is determined by the Department of Finance to have a civilian unemployment rate that is within the top 25% of all census tracts within the state and has a poverty rate within the top 25% of all census tracts within the state.

6) Defines an "economic development area" as either a former enterprise zone or a local agency military base recovery area, as specified.

7) Provides that, unless the taxpayer is a "small business", qualified taxpayers shall not include any of the following:

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

b) Employers that provide retail trade services, as described in NAICS Sector 44-45;

c) Employers that are primarily engaged in providing food services, as described in NAICS Codes 711110, 722511, 722513, 722514, or 722515; or,

d) Employers that are primarily engaged in casino, casino hotel, and alcoholic beverage establishments as described in NAICS Code 713210, 721120, or 722410.

8) Defines a "small business" as a trade or business that has aggregate gross receipts, less returns and allowances reportable to this state, of less than $2 million during the previous taxable year.

9) Prohibits employers engaged in sexually oriented businesses from claiming the NEC.

10) Prohibits employers with 5 or more employees from asking job applicants about their conviction history before extending a job offer, except in specific instances. (Government Code Section 12952.)

FISCAL EFFECT: The FTB estimates General Fund revenue losses of $150,000 in fiscal year (FY) 2025-26, $350,000 in FY 2026-27, and $350,000 in FY 2027-28.

COMMENTS:

1) The author has provided the following statement in support of this bill:

> Under the Fair Chance Act, businesses with five or more employees are prohibited from inquiring about an applicant's conviction history prior to making a job offer. Regardless, 60% of formerly incarcerated persons are unemployed within a year of reintegration back into society. These citizens are released from prison with nothing more than $200 and a bus ticket, and expected to start a new life. According to the California Department of Corrections and Rehabilitation, over 60% of individuals released from prison in California will re-offend within three years. Incarceration of an individual costs the State of California approximately $132,860 annually per inmate. However, if a formerly incarcerated person is employed within a year of reintegration, their chance of recidivism drops to 16%.
>
> AB 231 aims to help those who have already paid their debt to society secure employment and start a new life. However, this bill will also help microbusinesses who choose to give a second chance to formerly incarcerated persons who have served their time and paid their debt to society. These microbusinesses are already incurring a significant risk when giving a formerly incarcerated person a second chance. AB 231 would help these microbusinesses thrive in a post-COVID economy.

2) This bill is supported by California Civil Liberties Advocacy, which notes, in part:

> The difficulties faced by formerly incarcerated individuals in securing stable and meaningful employment are well-documented, with studies consistently demonstrating that those with a history of felony convictions face disproportionate obstacles in reentering the workforce, even when they possess the requisite skills, experience, and willingness to work. By introducing a financial incentive in the form of a 40% tax credit—capped at $5,000 per qualified employee—this legislation directly addresses one of the most persistent and detrimental economic challenges associated with reentry. It simultaneously mitigates risk for small business owners, who often hesitate to extend job opportunities to individuals with criminal backgrounds due to concerns about workplace liability, stigma, or financial uncertainty.

3) This bill is opposed by CFT – A Union of Educators & Classified Professionals, AFT, AFL-CIO, which notes, in part:

> California voters secured funding for public education via Proposition 98, which provides funding to our TK-12 schools and Community Colleges from revenues of the General Fund. Specifically public education is funded mainly by the income tax, corporate

income tax, sales and use tax, and property taxes. Tax credits, exemptions, and other expenditures however, remove funding from public education. For every dollar that is provided in tax expenditures, approximately 40 cents of each dollar comes out of California's classrooms. For this reason, the CFT opposes tax expenditures. While the merit and goal of the bill are laudable, educators prefer that the state invest in progressive tax policies, such as a wealth tax, which would gather a minuscule amount of revenue from those who count their net worth in the billions.

4) Committee Staff Comments:

a) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax

Table 2. WOTC Certifications by Target Population, FY2015-FY2017

	FY2015		FY2016		FY2017	
	Number	**%**	**Number**	**%**	**Number**	**%**
TANF Recipients	76,639	4.0%	87,158	3.5%	73,065	3.6%
Veterans[a]	121,629	6.4%	158,083	6.4%	149,495	7.4%
Ex-felons	53,307	2.8%	70,590	2.8%	67,862	3.4%
Designated Community Residents	75,568	4.0%	89,155	3.6%	78,300	3.9%
Vocational Rehabilitation Referrals[b]	27,932	1.5%	34,905	1.4%	30,831	1.5%
SNAP Recipients	1,381,946	72.9%	1,825,056	73.5%	1,376,325	68.2%
SSI Recipients	23,480	1.2%	41,797	1.7%	32,384	1.6%
Long-Term TANF Recipients	131,839	7.0%	169,283	6.8%	133,148	6.6%
Other[c]	4,188	0.2%	8,122	0.3%	76,479	3.8%
Total	**1,896,528**	**100.0%**	**2,484,149**	**100.0%**	**2,017,889**	**100.0%**

Source: Data are from DOL, Employment and Training Administration, Past Program Outcomes and Data Reports, https://www.doleta.gov/business/incentives/opptax/wotcResources.cfm.

a. Includes all veterans certified under any of the "qualified veteran" criteria.

b. Includes Ticket-to-Work recipients .

c. This category includes long-term unemployment recipients in FY2016 and FY2017.

expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

b) *Federal WOTC overview*: The WOTC provides a federal tax credit to employers that hire workers with certain personal characteristics, including qualified ex-felons, veterans, recipients of certain public benefits, individuals with a disability receiving vocational rehabilitation services, or other specified populations.[1] A qualified ex-felon, for purposes of the WOTC, is an individual who has been convicted of a felony under state or federal law and has a hiring date that is within one year of either the individual's conviction or release from prison.

The WOTC is designed to incentivize the hiring of employees with certain characteristics by subsidizing a portion of the qualified worker's wage. If an employer has a choice between hiring two identical applicants, one of whom is eligible for the WOTC and one of whom is not, the employer may opt to hire the WOTC-eligible applicant because employing that worker will have a lower after-tax cost. The credit is structured to provide an advantage to workers from the WOTC target groups seeking employment; it is not designed to stimulate the creation of new jobs.

c) *WOTC mechanics*: An individual's eligibility for the WOTC is determined by state workforce agencies, which also process WOTC certifications. In California, this entity is the Employment Development Department (EDD). A jobseeker that belongs to one of the eligible groups can obtain a conditional certification form via their local workforce development board or other relevant public agency that provides assistance to jobseekers. Using this conditional certification, the jobseeker can then use their status as a WOTC-eligible employee when applying for jobs, potentially giving them an advantage over other applicants. Alternatively, an employer can complete and submit forms to the state's WOTC coordinator. In either scenario, the IRS Form 8850 must be submitted within 28 days after the eligible hire begins work.

   States then verify that an individual is a member of a covered group and notify the employer that the application has been certified. Once a new hire is certified, the employer may claim the WOTC as part of the General Business Credit. If an employer does not have tax liability in the tax year that the WOTC-eligible worker was hired, the credit from the WOTC—as part of the General Business Credit—can be carried back up to one year or carried forward up to 20 years before expiring. For most target groups, the maximum wages that are eligible for the WOTC credit are $6,000. Assuming the eligible employee works at least 400 hours and the employer claims the full 40% credit, the maximum credit for most eligible workers is $2,400. Some eligible populations have different levels of qualified wages.

d) *California's NEC*: In 2013, the Legislature enacted AB 93 (Committee on Budget), Chapter 69, Statutes of 2013, and SB 90 (Galgiani), Chapter 70, Statutes of 2013, which reformed California's economic development policies by eliminating enterprise zones and other geographically targeted economic development areas. Enacted with the abuse of previous tax incentives in mind, the NEC contains much more stringent requirements for taxpayers to qualify.[2] Qualified full-time employees include many of the same categories included under the Enterprise Zone Hiring Credit: previously unemployed persons,

---

[1] "The Work Opportunity Tax Credit", Congressional Research Service (September 25, 2018). https://sgp.fas.org/crs/misc/R43729.pdf.
[2] "Implementation and Effectiveness of California's New Employment Credit", California State Senate Committee on Governance and Finance (March 8, 2023).

veterans, ex-offenders, and low-income families with children.

Eligible employees must also work at least an average of 35 hours per week and meet other specified requirements. To claim the credit, taxpayers must receive a tentative credit reservation from the FTB for that qualified full-time employee within 30 days from the date of hire and certify each qualified employee annually. Additionally, state law sets the amount of credit at 35% of qualified wages, on wages paid between 150% and 350% of minimum wage, with the top and bottom wage range increasing over time due to increases in the minimum wage rate. However, taxpayers must also have a net increase in their total number of full-time employees working in California when compared to their base year based on annual full-time equivalents to claim the credit.

e) *Barriers to claiming the NEC*: The Legislative Analyst's Office states that the low amount of credits claimed suggests that the existing tax credit has been challenging or unappealing for businesses to use, and cites the credits' high wage threshold, small credit amount, complexity, uncertainty, and interaction with other credits as contributing to low participation. Another restriction that may be hindering use is that taxpayers must demonstrate an overall increase in employment as compared to a base year, meaning that a company must keep continually increasing their workforce year over year. A new business that is rapidly expanding can easily meet this target, but more established firms are less likely to continuously increase employment. Additionally, the statute requires that the employer and employees be located in areas that are designated to have the highest unemployment and poverty levels, but only allows employers to generate credits when paying workers more than 150% of minimum wage. However, census tracts where businesses pay residents high wages are less likely to have high unemployment and poverty rates.

f) *Fair Chance Act*: AB 1008 (McCarty), Chapter 789, Statutes of 2017, the Fair Chance Act, generally prohibits employers with five or more employees from asking about a job applicant's conviction history before extending a job offer. This type of law is also known as a "Ban the Box" law. California enacted the Fair Chance Act to reduce barriers to employment for individuals with conviction histories because gainful employment is essential to these individuals supporting themselves and their families and to improving their community ties and mental health – all of which reduce recidivism.

g) *Committee's tax expenditure policy*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements. In its current form, this bill states that the credit is designed to reduce recidivism rates by reducing unemployment among recently released ex-felons.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" shall mean ten years. This bill, as currently drafted, complies with the Committee's policy on sunset dates.

h) *Implementation considerations*:

i) *In lieu of any other credit*: As currently drafted, this bill contains language providing that this credit must be taken in lieu of any other credit that the qualified taxpayer may otherwise claim with respect to wages paid to a qualified employee. This clause would limit the ability of a taxpayer to claim any other work or employment related credit if the employees qualifying for the other credit met the definition of a qualifying employee under this bill. This may lead to the denial of larger employment related credits, which in turn may have the unintended impact of limiting the hiring of qualified employees under this bill if it limits the qualified taxpayer's ability to claim a larger credit.

ii) *Report timeline*: This bill would require the FTB to submit a report to the Legislature detailing the number of taxpayers that receive a credit and the average dollar value of credits allowed by December 1, 2028. If the author's intent is to review a report that contains complete information for the 2026 taxable year, the FTB recommends that the reporting due date be extended to April 2029. Corporate filers that file on extension may file as late as October 15, 2028. The FTB needs approximately six months to complete return processing and to compile the needed data to prepare a report.

i) *Prior legislation*:

i) AB 2128 (Ta), of the 2023-24 Legislative Session, was substantially similar to this bill. AB 2128 was held on the Assembly Appropriations Committee's Suspense File.

ii) AB 2294 (Schiavo), of the 2023-24 Legislative Session, increased the availability of the NEC by repealing various limitations and expanding the definitions of both "qualified wages" and "qualified full-time employee" for the 2024 and 2025 taxable years. AB 2294 was not heard by this Committee.

iii) SB 553 (Limón), of the 2021-22 Legislative Session, would have allowed a tax credit to certain employers that hire employees who are members of a targeted group. SB 553 was held on the Senate Appropriations Committee's Suspense File.

iv) AB 1726 (Arambula), of the 2019-20 Legislative Session, was substantially similar to SB 553. AB 1726 was held on the Assembly Appropriations Committee's Suspense File.

v) AB 916 (Quirk-Silva and Arambula), of the 2017-18 Legislative Session, was substantially similar to SB 553. AB 916 was held on the Senate Appropriations Committee's Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Prisoner Support Committee

California Alliance of Family Businesses
California Civil Liberties Advocacy
REDF
Western Electrical Contractors Association

Opposition

California Teachers Association
CFT – A Union of Educators & Classified Professionals, AFT, AFL-CIO

Analysis Prepared by: Wesley Whitaker / REV. & TAX. / (916) 319-2098