STATE OF CALIFORNIA
Franchise Tax Board

New Employment Credit Report

Economic and Statistical Research Bureau

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Purpose

This report is intended to fulfill the Franchise Tax Board's obligation under the Revenue and Taxation Code sections 17053.73 and 23626 to annually report by March 1, to the Joint Legislative Budget Committee, under these sections for the most recent fiscal year, the total amount of the credits claimed, a comparison of the total dollar amount of credits claimed under this section with respect to the department's estimate, and identify options for increasing annual claims of the credit should it not meet estimated amounts.

Prepared by the Staff of the
Franchise Tax Board
STATE OF CALIFORNIA

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Background

Chapters 69 and 70 of the Statutes of 2013 (AB 93 and SB 90 respectively) created a New Hiring Tax Credit (also known as the New Employment Credit (NEC)) for employers and was operative for taxable years beginning on or after January 1, 2014, and before January 1, 2021. Chapter 52 of the Statutes of 2018 (SB 855) extended the credit's operative date through 2025. To obtain a credit, a qualified taxpayer must:

- Hire a qualified full-time employee on or after January 1, 2014;
- Pay qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area;
- Receive a Tentative Credit Reservation from the Franchise Tax Board (FTB) (within 30 days of complying with the Employment Development Department's (EDD) new hire reporting requirement) for that qualified full-time employee; and
- Annually certify each qualified employee.

The credit is based on 35 percent of qualified wages, or wages between 150 percent and 350 percent of the California minimum wage. As of January 1, 2024, California's minimum wage has increased to $16.00. In 2023, the minimum wage was $15.50 per hour.

In order to generate an allowable credit, the qualified taxpayer must have a net increase in its total number of full-time equivalent employees working in California compared to its "base year," the taxable year immediately before the year when the first qualified employee was hired. In addition, to claim generated credits on a tax return, the qualified taxpayer must have tax liability to offset. Otherwise, the credit is carried forward for potential use for up to five taxable years subsequent to the year the credit was generated.

A qualified taxpayer:

- Is an employer engaged in a trade or business within a designated census tract or economic development area.
- Is not engaged in any excluded businesses, including temporary help services, retail trades, those primarily in food services, alcoholic beverage places, theater companies, dinner theaters, casinos, and casino hotels unless the business is considered a small business.
- Is not engaged in a sexually oriented business.
- Hires an individual that is a qualified full-time employee that works at least an average of 35 hours per week and meets other specified wage requirements.

A qualified employee is an employee who meets at least one of the following five criteria:

- Is unemployed for the six months immediately preceding employment;
- Is a veteran who has not been employed since separation from service;
- Is a recipient of the federal earned income tax credit for the previous taxable year;
- Is an ex-offender immediately preceding employment; or
- Is a recipient of CalWORKS or general assistance immediately preceding employment.

Chapter 55 of the Statues of 2023 (SB 131) expanded the NEC for taxable years beginning on or after January 1, 2023, and before January 1, 2026, to taxpayers engaged in the following North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2022 edition:

- Semiconductor manufacturing or semiconductor research and development (NAICS code 3344)
- Electric airplane manufacturing (NAICS code 3364)
- Lithium production or the manufacturing of lithium batteries (NAICS codes 212390, 325180, or 335910)

A taxpayer engaged in these industries must pay or incur qualified wages during the taxable year, request a tentative credit reservation, and self-certify and provide the verification to the FTB. In addition, the definition of a "qualified full-time employee" is modified by eliminating the requirement that a new employee should perform at least 50 percent of their services within designated census tract or economic development area. It also, modified starting wage requirement, for these industries, ranging from 100 percent to 350 percent of minimum wage and the wages paid must be subject to withholding.

Franchise Tax Board Outreach Efforts

Over the past few years, the FTB has publicized the availability of the NEC via various outreach efforts including the following:

- Assisting with presentations when requested.
- Monitoring a dedicated email box regarding business incentives and responding to questions from the public.
- Publishing articles in FTB's Tax News online newsletter.
- Maintaining an interactive website with credit information, as well as online mapping, reservation, and employment certification tools.

- Continuing to work with the California Department of Technology to keep the DGA map for census tracts functioning and useful for taxpayers.

Franchise Tax Board Statutory Reporting Requirements

The FTB is required to provide an annual report, by no later than March 1, to the Joint Legislative Budget Committee which includes the following:

- The total dollar amount of the credits claimed under this section with respect to the relevant fiscal year.
- A comparison of the total dollar amount of credits claimed under this section with respect to that fiscal year with the department's estimate with respect to that same fiscal year.
- Should the total dollar amount of credits claimed for the fiscal year be less than the estimate for that fiscal year, the report shall identify options for increasing annual claims of the credit so as to meet estimated amounts.

The current year total amount of credits claimed are compared to projected credit usage from FTB’s annual Tax Expenditure Report.

Beginning March 1, 2025, the FTB is required to include credit amounts claimed by qualified taxpayers in the expanded industries specified in SB 131 (Chapter 55, Statues of 2023) in this report.

Data

Table 1 presents data on NEC allowed on tax returns for tax years 2020 through 2022. The data is based on taxpayer’s self-reported tax return information for returns processed as of December 2023. During this period, $12.8 million in NECs were allowed on 1,039 tax returns.

Table 1: Total Credit Allowed by Tax Year

Tax Year	Number of Returns	Total Credits Allowed
2020	380	$4,393,560
2021	331	$5,401,737
2022*	328	$3,053,755
Total	**1,039**	**$12,849,052**

***** Not all timely 2022 tax year returns have been processed as of this writing.

Credits Claimed: Estimates and Actual

Table 2 compares the FTB’s tax year 2019 Tax Expenditure Report estimates for the 2020 and 2021 tax years to actuals claimed for those years.

Table 2: Total Credit Estimate and Actual by Tax Year

Tax Year	**2020**	**2021**
Actual NEC Amounts Claimed	$4,393,560	$5,401,737
Estimated NEC Amounts Claimed	$4,231,745	$4,887,582

Table 3 compares the FTB's tax year 2019 Tax Expenditure Report estimates with actuals claimed for the last two complete fiscal years.

Table 3: Total Credit Estimate and Actual by Fiscal Year

Fiscal Year	**2020-21**	**2021-22***
Actual NEC Amounts Claimed	$4,979,683	$4,066,379
Estimated NEC Amounts Claimed	$4,560,684	$5,002,013

* - Not all timely 2022 tax year returns have been processed as of this writing.

As required by law, because the actual amounts claimed exceed the FTB's estimated amount for the tax year 2020, the FTB will not be attempting to identify options for increasing annual claims of the credit.