Office of the Mayor

CONSENT CALENDAR
April 25, 2023

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Resolution to Support AB 441

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill 441, introduced by Assembly Member Matt Haney, and send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assembly Members Matt Haney and Buffy Wicks.

SUMMARY

If adopted, Assembly Bill 441 would authorize the Franchise Tax Board to provide advance monthly payments to tax filers who are eligible for $1,000 or greater in combined tax credits from the CalEITC, Young Child Tax Credit and Foster Youth Tax Credit, offer direct deposit whenever possible, and increase protections for filers to maintain their eligibility. This change would provide allow eligible low-income residents to receive more frequently by instructing the State to deliver these tax credits on a monthly instead of lump-sum, yearly basis.

BACKGROUND

California's refundable tax credits, which include the California Earned Income Tax Credit (CalEITC), Young Child Tax Credit, and Former Foster Youth Tax Credit, has been shown to increase the economic well-being of low-income, tax-paying Californians by returning $1 billion into their pocketbooks each year[1]. As 3 in 4 eligible Californians are people of color[2], these tax credits can be a helpful tool in supporting economic racial equity across the State. While these programs are rightfully celebrated as among our state's most effective tools to helping people meet their basic needs, their impact could be expanded by paying out tax credits as they are earned, on a monthly basis, instead of paid out once a year.

Returning tax credits to low-income residents on a monthly basis will provide financial security by way of delivering stable monthly payments. These payments can help mitigate the risk of financial volatility experienced by 30% of California households[3].

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[1] Governor Newsom raised the State's level of investment for CalEITC from $400M to $1B in 2020. https://www.csd.ca.gov/Pages/CalEITC.aspx
[2] According to All Home California. https://www.allhomeca.org/wp-content/uploads/2023/03/AB-441-Monthly-Payments-Background.pdf
[3] Source: Prosperity Now Scorecard via U.S. Census. https://scorecard.prosperitynow.org/reports#report-state-profile/6

With one in three Bay Area residents[4] consistently depleting their income before the end of the month, our low-income neighbors across and around Berkeley are regularly faced with making difficult decisions to afford their basic needs. This reality has been further exasperated by the economic side effects experienced in our society from COVID-19. The City's remains committed to ensuring its residents have access to the means of securing a safe, enriching, and healthy life, and seeks to remove any barriers to this charge through equitable manners whenever possible.

AB 441 would work to remove obstacles for the City's low-income residents, safeguard them from economic volatility, offer greater control over their tax liability for these residents and those caring for our disenfranchised youth, and help expand the impact of the State's tax credit program. In addition, AB 441 would also offer pragmatic benefits, such as protecting taxpayers and the State from overpayments, streaming the process for taxpayers to receive credits, give recipients greater flexibility in managing their eligibility, and protect a taxpayer's federal and state benefits. AB 441 would advance monthly payments to tax filers who are eligible for $1,000 or greater in combined tax credits from the CalEITC, Young Child Tax Credit and Foster Youth Tax Credit and:

- deliver advanced monthly payments equal to 80% of the estimated total credit amount to each eligible tax filer, with the other 20% of the credits made available upon tax filing;
- pay taxpayers more immediately via direct deposit where possible, or otherwise deliver payments via check or debit card;
- allow recipients to opt out of payments and make any changes affecting their eligibility for the credits on the State's myFTB platform on an ad hoc basis;
- prevent monthly payments of tax credits from being counted as regular income for the purpose of determining state benefits;
- require the clarification of any federal tax law impacting one's eligibility to be made clear before providing advanced monthly payments; and
- require the Franchise Tax Board to request any federal agency waivers that are necessary to protect a taxpayers' federal benefits.

[4] Source: 2020 "Taking Count" study conducted by Tipping Point and the Othering and Belonging Institute at UC Berkeley. https://tippingpoint.org/wp-content/uploads/2020/07/Taking-Count-2020-A-Study-on-Poverty-in-the-Bay-Area.pdf

As demonstrated through the passage of the nation's most expansive Fair Work Week Ordinance[5], expansion of our shelter and services through Measure P[6], and commitment to protecting our undocumented residents as a Sanctuary City[7], the City of Berkeley remains committed to supporting our most vulnerable residents. AB 441 is in-line with this commitment, as it aims to support low-income families, those at risk of living in or returning to poverty, children supported by the foster care system, and one missed payment away from losing their housing and/or maintaining a safe, enriching, and healthy life.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
No environmental impact.

CONTACT PERSON
Mayor Jesse Arreguín, 510-981-7100
Anthony Rodriguez, Senior Legislative Assistant

Attachments:
1: Resolution (SUPPORT OF CALIFORNIA ASSEMBLY BILL 441)
2: Text of AB 441 (as of March 29, 2023)

[5] On November 21, 2022 the City Council passed the Fair Work Week Ordinance, adding to the City's municipal code Chapter 13.102 during a Special City Council meeting. In it, the City mandated large employers give lower-wage workers their shift schedules at least two weeks in advance, with a pay bonus given if they call employees in or cancel their shifts on short notice.
[6] The City's voter passed Measure P in November of 2018, providing $10M in funding to pay for homeless services from a property transfer tax. Passed with 72.4% of the vote, these services, among many, include navigation centers, mental health support, rehousing.
[7] On February 13, 2018 the City Council passed the Sanctuary City Ordinance, followed by the Sanctuary City Contracting Ordinance on December 13, 2019. Both offer protections to undocumented immigrants by way of limiting the City's ability to provide information on the citizenship status to the United States Immigration and Customs Enforcement (USICE) agency, and engaging in a new, amended, or extended contract or agreement with any entity that provides USICE with data broker or extreme vetting services.

RESOLUTION NO. ##,###-N.S.

SUPPORTING ASSEMBLY BILL 441

WHEREAS, the California Earned Income Tax Credit (CalEITC), Young Child Tax Credit, and Former Foster Youth Tax Credit have been shown to increase the economic well-being of low-income, tax-paying Californians by returning $1 billion to them each year; and

WHEREAS, All Home California notes 3 in 4 eligible Californians who receive one or more of these tax credits are people of color whom could benefit from this tool in providing economic racial equity across the State; and

WHEREAS, the Propensity Now Scorecard prepared using U.S. Census data shows that tax credits given to these recipients can help mitigate the risk of financial volatility experienced by 30% of California households; and

WHEREAS, the “Taking Count” study conducted by Tipping Point and the Othering and Belonging Institute at UC Berkeley found one in three Bay Area residents consistently deplete their income before the end of the month, rendering them vulnerable to making difficult decisions that limit their ability to meet their basic needs; and

WHEREAS, Assembly Bill 441, introduced by Assembly Member Matt Haney, would remove obstacles for the City’s low-income residents, safeguard them from economic volatility, offer greater control over their tax liability for these residents and those caring for our disenfranchised youth, and help expand the impact of the State’s tax credit program; and

WHEREAS, Assembly Bill 441 would offer pragmatic benefits, such as protecting taxpayers and the State from overpayments, streaming the process for taxpayers to receive credits, give recipients greater flexibility in managing their eligibility, and protect a taxpayer’s federal and state benefits; and

WHEREAS, Assembly Bill 441 would advance monthly payments to tax filers who are eligible for $1,000 or greater in combined tax credits from the CalEITC, Young Child Tax Credit and Foster Youth Tax Credit; and

WHEREAS, the City of Berkeley believes Assembly Bill 441 is in-line with its commitment, to supporting low-income families, those at risk of living in or returning to poverty, children supported by the foster care system, and those vulnerable to financial volatility; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 441.

BE IT FRUTHER RESOLVED that copies of the Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assembly Members Matt Haney and Buffy Wicks.

AMENDED IN ASSEMBLY MARCH 29, 2023

AMENDED IN ASSEMBLY MARCH 9, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL No. 441

Introduced by Assembly Member Haney

February 6, 2023

An act to amend Sections 17052, 17052.1, and 17052.2 of, and to add Section 17052.3 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 441, as amended, Haney. Earned Income Tax Credit: young child tax credit: foster youth tax credit: periodic payments.

The Personal Income Tax Law, in modified conformity with federal income tax laws, allows an earned income tax credit against personal income tax and a payment from the continuously appropriated Tax Relief and Refund Account for an allowable credit in excess of tax liability to an eligible individual that is equal to that portion of the earned income tax credit allowed by federal law, as determined by the earned income tax credit adjustment factor, as specified. The Personal Income Tax Law also allows a young child tax credit and a foster youth tax credit against the taxes imposed by that law, and a payment from the Tax Relief and Refund Account for allowable credits in excess of tax liability to a qualified individual, as defined.

This bill would require the Franchise Tax Board to establish a program for making periodic payments from the Tax Relief and Refund Account to qualified taxpayers, as defined. The bill would require the aggregate of these periodic payments in any calendar year to be equal to 80% of the estimated total amount allowed to the taxpayer as an earned income tax credit, a young child tax credit, and a foster youth tax credit. The bill would define "qualified taxpayer" for these purposes to mean a taxpayer that is eligible to receive an earned income tax credit, a young child tax credit, or a foster youth tax credit, but only if the combined total of ~~such~~ *those* credits allowed to the taxpayer in the applicable year is $1,000 or more. The bill would reduce the amount allowed as an earned income tax credit, young child tax credit, or foster youth tax ~~credit~~ *credit, but not below zero,* to the extent the taxpayer received any periodic payments related to those credits. The bill would require the Franchise Tax Board to allow a qualified taxpayer to report changes to their income, household size, filing status, or any other personal information relevant to estimating the amount of any credit allowed to the taxpayer, and would authorize the Franchise Tax Board to modify the estimated value of credits allowed to the taxpayer. The bill would further allow the Franchise Tax Board to adjust the periodic payments, as necessary, to account for any modification to the estimated value of credits allowed to a qualified taxpayer. *The bill would require the Franchise Tax Board, upon receiving a tax return from a qualified taxpayer, to compare the aggregate amount of periodic payments received during the relevant calendar year to the aggregate total of tax credits the taxpayer was allowed. In the case that the amount of the periodic payments received by the taxpayer exceeds the total of tax credits the taxpayer was allowed by more than $300, the bill would require the taxpayer to repay so much of the difference that exceeds $300.* The bill would require the Controller to make transfers from the Personal Income Tax Fund to the Tax Relief and Refund Account as required to make the estimated payments. By authorizing additional payments from a continuously appropriated fund, this bill would make an appropriation.

This bill would also require the Franchise Tax Board, in coordination with the State Department of Public Health, the State Department of Social Services, and any other relevant state agency, to request a waiver from any federal agency that administers specified benefits programs to exclude any amount paid in monthly advance payments authorized by the bill from income in determining eligibility for, or calculation of benefits under, those benefit programs. The bill would state its provisions would only become operative upon the enactment of federal legislation, promulgation of federal regulation, or similar guidance from federal agencies, that the advance payments authorized by the bill *would be excluded from income for purposes of determining eligibility for, or the calculation of benefits under, those federal benefit programs.*

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17052 of the Revenue and Taxation Code is amended to read:

17052. (a) (1) For each taxable year beginning on or after January 1, 2015, there shall be allowed against the "net tax," as defined by Section 17039, an earned income tax credit in an amount equal to an amount determined in accordance with Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal income tax purposes for the taxable year, except as otherwise provided in this section.

(2) (A) The amount of the credit determined under Section 32 of the Internal Revenue Code, relating to earned income, as modified by this section, shall be multiplied by the earned income tax credit adjustment factor for the taxable year.

(B) Unless otherwise specified in the annual Budget Act, the earned income tax credit adjustment factor for a taxable year beginning on or after January 1, 2015, shall be 0 percent.

(C) The earned income tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit.

(3) The amount of the credit allowed pursuant to this section shall be ~~reduced~~ *reduced, but not below zero dollars ($0),* by any amount received by the eligible individual pursuant to Section 17052.3 that relates to an estimated allowance of a credit under this section.

(b) (1) In lieu of the table prescribed in Section 32(b)(1) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%

1 qualifying child	34%	34%
2 qualifying children	40%	40%
3 or more qualifying children	45%	45%

(2) (A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$3,290	$3,290
1 qualifying child	$4,940	$4,940
2 or more qualifying children	$6,935	$6,935

(B) Section 32(b)(2)(B) of the Internal Revenue Code, relating to joint returns, shall not apply.

(c) (1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code is modified by substituting "this state" for "the United States."

(2) For each taxable year beginning on or after January 1, 2018, Section 32(c)(1)(A)(ii)(II) of the Internal Revenue Code is modified by deleting "25 but not attained age 65" and inserting in lieu thereof the following: "18."

(3) Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

(A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is modified by deleting "plus" and inserting in lieu thereof the following: "and only if such amounts are subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code."

(B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall not apply.

(4) For taxable years beginning on or after January 1, 2017, paragraph (3) shall not apply and in lieu thereof Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

(A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is modified by deleting "plus" and inserting in lieu thereof the following: "and only if such amounts are subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code, plus."

(B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall apply.

(5) Section 32(c)(3)(C) of the Internal Revenue Code, relating to place of abode, is modified by substituting “this state” for “the United States.”

(d) Section 32(i)(1) of the Internal Revenue Code is modified by substituting “$3,400” for “$2,200.”

(e) (1) In lieu of Section 32(j) of the Internal Revenue Code, relating to inflation adjustments, for taxable years beginning on or after January 1, 2016, the amounts specified in paragraph (2) of subdivision (b) and in subdivision (d) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(2) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, when recomputing the amounts referenced in paragraph (1), the percentage change in the California Consumer Price Index shall be deemed to be the greater of 3.1 percent or the percentage change in the California Consumer Price Index as calculated under subdivision (h) of Section 17041 for that taxable year.

(3) For each taxable year beginning on or after January 1, 2019, and before January 1, 2020, when recomputing the amounts referenced in paragraph (1), the percentage change in the California Consumer Price Index shall be deemed to be the greater of 3.5 percent or the percentage change in the California Consumer Price Index as calculated under subdivision (h) of Section 17041 for that taxable year.

(f) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(g) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section,

including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(h) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(i) (1) For the purpose of implementing the credit allowed by this section for the 2015 taxable year, the Franchise Tax Board shall be exempt from the following:

(A) Special Project Report requirements under State Administrative Manual Sections 4819.36, 4945, and 4945.2.

(B) Special Project Report requirements under Statewide Information Management Manual Section 30.

(C) Section 11.00 of the 2015 Budget Act.

(D) Sections 12101, 12101.5, 12102, and 12102.1 of the Public Contract Code.

(2) The Franchise Tax Board shall formally incorporate the scope, costs, and schedule changes associated with the implementation of the credit allowed by this section in its next anticipated Special Project Report for its Enterprise Data to Revenue Project.

(j) (1) In accordance with Section 41, the purpose of the California Earned Income Tax Credit is to reduce poverty among

California's poorest working families and individuals. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

(A) The number of tax returns claiming the credit.

(B) The number of individuals represented on tax returns claiming the credit.

(C) The average credit amount on tax returns claiming the credit.

(D) The distribution of credits by number of dependents and income ranges. The income ranges shall encompass the phase-in and phaseout ranges of the credit.

(E) Using data from tax returns claiming the credit, including an estimate of the federal tax credit determined under Section 32 of the Internal Revenue Code, an estimate of the number of families who are lifted out of deep poverty by the credit and an estimate of the number of families who are lifted out of deep poverty by the combination of the credit and the federal tax credit. For the purposes of this subdivision, a family is in "deep poverty" if the income of the family is less than 50 percent of the federal poverty threshold.

(2) The Franchise Tax Board shall provide the written report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(k) The tax credit allowed by this section shall be known as the California Earned Income Tax Credit.

(*l*) The amendments made to this section by Chapter 722 of the Statutes of 2016 shall apply to taxable years beginning on or after January 1, 2016.

(m) (1) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	2.20%	1.22%
1 qualifying child	3.10%	2.29%
2 qualifying children	2.13%	3.45%
3 or more qualifying children	2.12%	3.49%

(2) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$5,354	$5,354
1 qualifying child	$9,484	$9,484
2 qualifying children	$13,794	$13,794
3 or more qualifying children	$13,875	$13,875

(n) (1) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	2.20%	1.08%
1 qualifying child	3.10%	2.00%
2 qualifying children	2.13%	2.82%
3 or more qualifying children	2.12%	2.85%

(2) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$5,520	$5,520
1 qualifying child	$9,778	$9,778
2 qualifying children	$14,222	$14,222
3 or more qualifying children	$14,305	$14,305

(o) (1) For each taxable year beginning on or after January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to two hundred dollars ($200) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to five hundred five dollars ($505) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	5.43%	0.92%
1 qualifying child	6.33%	2.88%
2 qualifying children	4.20%	3.75%
3 or more qualifying children	4.15%	3.78%

(2) For each taxable year beginning on or after January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to two hundred dollars ($200) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to five hundred five dollars ($505) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$4,334	$4,334
1 qualifying child	$9,381	$9,381

2 qualifying children	$14,137	$14,137
3 or more qualifying children	$14,302	$14,302

(3) For taxable years beginning on or after January 1, 2020, and until and including the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, both of the following shall occur:

(A) The amounts in paragraphs (1) and (2) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(B) The phaseout percentage for each of the four categories of eligible individuals shall be recalculated by the Franchise Tax Board in such a manner that, for a taxpayer with an earned income of thirty thousand dollars ($30,000), the calculated amount of credit is equal to zero.

(4) (A) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the amounts in paragraphs (1) and (2) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(B) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the phaseout percentages for the prior taxable year, as recalculated under subparagraph (B) of paragraph (3), shall apply.

(p) For each taxable year beginning on or after January 1, 2020, Section 32(m) of the Internal Revenue Code, relating to identification numbers, is modified as follows:

(1) By deleting "(other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(2) By substituting "federal individual taxpayer identification number or a social security number" for "social security number."

(q) An eligible individual, eligible individual's spouse, or qualifying child using a federal individual taxpayer identification number as authorized under subdivision (p) shall:

(1) Upon request of the Franchise Tax Board, provide:

(A) Identifying documents acceptable for purposes of obtaining a California driver's license or identification card as authorized by subdivisions (a), (b), and (c) of Section 12801.9 of the Vehicle Code and related regulations adopted for purposes of establishing documents acceptable to prove identity.

(B) Identifying documents used to report earned income for the taxable year.

(2) Upon receiving a valid social security number issued to that individual by the Social Security Administration, notify the Franchise Tax Board, in the time and manner prescribed by the Franchise Tax Board.

(r) The Legislature finds and declares that, to the extent they are otherwise qualified for a credit under this section, undocumented persons are eligible for the tax credit authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

SEC. 2. Section 17052.1 of the Revenue and Taxation Code is amended to read:

17052.1. (a) (1) For each taxable year beginning on or after January 1, 2019, there shall be allowed against the "net tax," as defined by Section 17039, a young child tax credit to a qualified taxpayer, in an amount as determined under paragraph (2).

(2) (A) (i) The amount of the young child tax credit shall be equal to one thousand one hundred seventy-six dollars ($1,176), multiplied by the earned income tax credit adjustment factor for the taxable year as specified for in Section 17052.

(ii) The amount of the young child tax credit specified under clause (i) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(B) The young child tax credit allowable in any taxable year to any qualified taxpayer shall be limited to the maximum amount specified in clause (i) of subparagraph (A) as recomputed under clause (ii) of subparagraph (A).

(C) (i) The young child tax credit shall be reduced by twenty dollars ($20) for each one hundred dollars ($100), or fraction thereof, by which the qualified taxpayer's earned income, as defined in Section 17052, exceeds the "threshold amount." For purposes of this section, the "threshold amount" shall be twenty-five thousand dollars ($25,000).

(ii) (I) For each taxable year beginning on or after January 1, 2022, and before January 1, 2023, the twenty dollars ($20) in clause (i) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041, except that the resulting products shall be rounded off to the nearest cent.

(II) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the amount calculated under subclause (I) shall substitute for the twenty dollars ($20) in clause (i).

(iii) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the "threshold amount" in this subparagraph shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(D) The young child tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit allowed under Section 17052.

(3) The amount of the credit allowed pursuant to this section shall be ~~reduced~~ *reduced, but not below zero dollars ($0),* by any amount received by the qualified taxpayer pursuant to Section 17052.3 that relates to an estimated allowance of a credit under this section.

(b) (1) "Qualified taxpayer" means an eligible individual who has at least one qualifying child and who satisfies either of the following:

(A) Has been allowed a tax credit under Section 17052.

(B) Meets all of the following requirements:

(i) Would otherwise have been allowed a tax credit under Section 17052, but has earned income, as defined in Section 32(c)(2) of the Internal Revenue Code, as modified by Section 17052, of zero dollars ($0) or less.

(ii) Does not have net losses in excess of thirty thousand dollars ($30,000) in the taxable year.

(iii) Does not have wages, salaries, tips, and other employee compensation in excess of thirty thousand dollars ($30,000) in the taxable year.

(2) For each taxable year beginning on or after January 1, 2022, the amounts specified under clauses (ii) and (iii) of subparagraph (B) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(c) "Qualifying child" shall have the same meaning as under Section 17052, except that the child shall be younger than six years of age as of the last day of the taxable year.

(d) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(e) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the qualified taxpayer.

(f) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(g) (1) In accordance with Section 41, the purpose of the Young Child Tax Credit is to reduce poverty among California's poorest working families and young children. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

(A) The number of tax returns claiming the credit.

(B) The number of qualifying children represented on tax returns claiming the credit.

(C) The average credit amount on tax returns claiming the credit.

(2) The Franchise Tax Board shall provide the written report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(h) The Legislature finds and declares that, to the extent they are otherwise qualified for a credit under this section, undocumented persons are eligible for the tax credit authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(i) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2022, except as provided in subparagraph (C) of paragraph (2) of subdivision (a).

SEC. 3. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) (1) For each taxable year beginning on or after January 1, 2022, there shall be allowed against the "net tax," as defined by Section 17039, a foster youth tax credit to a qualified taxpayer, in an amount as determined under paragraph (2).

(2) (A) The amount of the foster youth tax credit shall be equal to one thousand one hundred seventy-six dollars ($1,176), multiplied by the earned income tax credit adjustment factor for the taxable year, as specified in Section 17052.

(B) For taxable years beginning on or after January 1, 2022, the amount in subparagraph (A) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(C) (i) The foster youth tax credit shall be reduced by twenty dollars ($20) for each one hundred dollars ($100), or fraction thereof, by which the qualified taxpayer's earned income, as defined in Section 17052, exceeds the threshold amount.

(ii) (I) For taxable years beginning on or after January 1, 2022, and before January 1, 2023, the twenty dollars ($20) in clause (i) shall be recomputed in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041, except that for purposes of this clause, subparagraph (B) of paragraph (2) of subdivision (h) of Section 17041 shall be modified by substituting "nearest cent" for "nearest one dollar ($1)."

(II) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the amount calculated under subclause (I) shall substitute for the twenty dollars ($20) in clause (i).

(iii) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the threshold amount shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(3) The amount of the credit allowed pursuant to this section shall be ~~reduced~~ *reduced, but not below zero dollars ($0),* by any amount received by the qualified taxpayer pursuant to Section 17052.3 that relates to an estimated allowance of a credit under this section.

(b) The foster youth tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the earned income tax credit allowed under Section 17052.

(c) For purposes of this section, the following definitions shall apply:

(1) "Qualified taxpayer," means an individual who satisfies all of the following:

(A) Has been allowed a tax credit under Section 17052 for the taxable year.

(B) Is 18 to 25 years of age, inclusive, as of the last day of the taxable year.

(C) Was in foster care while 13 years of age or older in an AFDC-FC placement, as described in Section 11402 of the Welfare and Institutions Code, including a tribally approved home, as defined in subdivision (r) of Section 224.1 of the Welfare and Institutions Code, or Approved Relative Caregiver Funding Program eligible placement, as described in Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, by a Title IV-E agency, pursuant to a voluntary placement agreement or a juvenile court order.

(2) "Threshold amount" shall be twenty-five thousand dollars ($25,000).

(3) "Title IV-E agency" means either of the following:

(A) A county child welfare agency or probation department that administers foster care placements under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code).

(B) An Indian tribe, tribal organization, or tribal consortium located in California or with lands that extend into the state that has an agreement with the State Department of Social Services pursuant to Section 10553.1 of the Welfare and Institutions Code to administer foster care placement under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code).

(d) (1) As provided for in Section 10850.8 of the Welfare and Institutions Code, and subject to federal approvals or waivers, the State Department of Social Services shall provide to the Franchise Tax Board the data regarding a qualified taxpayer placed by a Title IV-E agency that may be necessary to verify that an individual qualifies for the foster youth tax credit. The data provided shall remain confidential and shall be used only for purposes directly connected with the foster youth tax credit.

(2) In the event federal approval or waivers pursuant to paragraph (1) are not provided, the Franchise Tax Board and the State Department of Social Services shall explore alternative methods to verify foster care status for individuals described in paragraph (1) of subdivision (c) in a manner consistent with state and federal law.

(3) The State Department of Social Services shall seek all appropriate federal waivers or approvals for the implementation of this subdivision as necessary. This subdivision shall be implemented only if necessary federal waivers or approvals are granted.

(e) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section.

(2) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(3) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any regulation, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the qualified taxpayer.

(g) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(h) Notwithstanding any other law, the payment authorized pursuant to this section shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of ~~such~~ *the* individual, or any other individual, for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (g). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

(i) The Legislature finds and declares that, to the extent they are otherwise qualified for a credit under this section, undocumented persons are eligible for the tax credit authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(j) (1) In accordance with Section 41, the purpose of the Foster Care Tax Credit is to reduce poverty among California's young adults who have been in the foster care program. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

(A) The number of tax returns claiming the credit.

(B) The average credit amount on tax returns claiming the credit.

(2) The Franchise Tax Board shall provide the written report, in compliance with Section 9795 of the Government Code, to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(3) The disclosure provisions of this subdivision shall be treated as an exception to Section 19542 under Article 2 (commencing with 19542) of Chapter 7 of Part 10.2.

SEC. 4. Section 17052.3 is added to the Revenue and Taxation Code, to read:

17052.3. (a) For purposes of this section, the following definitions apply:

(1) "Annual advance amount" means, with respect to a qualified taxpayer for any calendar year, the amount, if any, that the Franchise Tax Board estimates is equal to 80 percent of the aggregate amount allowed as a credit under Sections 17052, 17052.1, and 17052.2 for the qualified taxpayer's taxable year that begins in that calendar year.

(2) (A) "Qualified taxpayer" means an eligible individual, as that term is defined in Section 17052, or a qualified taxpayer as that term is defined in either Section 17052.1 or 17052.2.

(B) Notwithstanding subparagraph (A), "qualified taxpayer" does not include a taxpayer if the combined total amount allowed as a credit to the taxpayer under Sections 17052, 17052.1, and 17052.2 is less than one thousand dollars ($1,000) for the applicable taxable year.

(b) (1) The Franchise Tax Board shall establish a program for making periodic payments to qualified taxpayers from the Tax Relief and Refund Account.

(2) The combined total of all periodic payments made to a qualified taxpayer during any calendar year shall equal the annual advance amount determined with respect to that taxpayer.

(c) The Franchise Tax Board may modify the annual advance amount with respect to a qualified taxpayer for a calendar year to take into account information made available to the Franchise Tax Board that may lead to a change in the annual advance amount, including, but not limited to, a tax return filed by the qualified taxpayer. In the case of any modification of the annual advance amount pursuant to this subdivision, the Franchise Tax Board may adjust the amount of any periodic payment made after the date of the modification to properly adjust the amount by which any prior periodic payments were greater than or less than the amount the payment would have been based on the modified annual advance amount.

(d) ~~The Franchise Tax Board shall distribute periodic payments of the annual advance amount by direct deposit if possible or by debit card or paper check if direct deposit is not possible.~~ *Upon receiving a tax return from a qualified taxpayer, the Franchise Tax Board shall determine the aggregate amount allowed to the taxpayer as a credit under Sections 17052, 17052.1, and 17052.2 for the taxable year.*

(1) In the event the advance monthly payments made to a qualified taxpayer exceed the aggregate amount allowed as determined by this subdivision by more than three hundred dollars ($300), the qualified taxpayer shall be liable to repay the portion of the difference that is in excess of three hundred dollars ($300). The qualified taxpayer shall repay that amount within three taxable years after receiving notice from the Franchise Tax Board of the excess payment.

(2) In the event that the advance monthly payments already paid to a qualified taxpayer under this section exceed the qualified

taxpayer's calculated aggregate amount by less than three hundred dollars ($300), the taxpayer shall not be liable to repay that amount.

(e) The Franchise Tax Board, through its internet website, shall allow a qualified taxpayer to report changes to their income, household size, filing status, or any other personal information that the Franchise Tax Board deems relevant to the calculation of the annual advance amount.

(1) The Franchise Tax Board shall send at least two annual reminders to people likely to be qualified taxpayers to record any changes to relevant personal information.

(2) Tax filers shall be allowed to decline participation in periodic payments at any time through the Franchise Tax Board's internet website.

(f) (1) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made.

(2) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(g) Notwithstanding any other law, amounts distributed pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(h) The Controller shall transfer, as needed, to the Tax Relief and Refund Account, from the Personal Income Tax Fund, an amount necessary to make the estimated payments provided for under subdivision (b).

(i) The Franchise Tax Board, in coordination with the State Department of Public Health, the State Department of Social Services, and any other relevant state agency, shall request a waiver from any federal agency that administers benefits, for which eligibility, or calculation of which, is based on a recipient's monthly income, to exclude from income any amount paid in

monthly advance payments authorized under this section for purposes of determining eligibility for, or calculation of benefits under, those programs, including, but not limited to, the following:

(1) Federal childcare assistance.

(2) Federal housing assistance.

(3) Low Income Home Energy Assistance Program (LIHEAP).

(4) Medicaid.

(5) Supplemental Nutrition Assistance Program (SNAP).

(6) Supplemental Security Income.

(7) Temporary Assistance for Needy Families (TANF).

(8) The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

(j) This section shall be operative for taxable years beginning on or after January 1 of the year that includes the date on which either of the following occurs:

(1) The federal government enacts legislation declaring that periodic payments of specified state tax credits, including the credits allowed under Sections 17052, 17052.1, and 17052.2, shall be excluded from the definition of income for the purpose of determining eligibility for, or calculation of benefits under, any federal public assistance program, eligibility for which is dependent upon a recipient's monthly income, including, but not limited to, federal childcare assistance, federal housing assistance, LIHEAP, Medicaid, SNAP, Supplemental Security Income, TANF, or WIC.

(2) The publication of regulations, guidelines, memoranda, or letters to a state agency official by any relevant federal agency declaring that periodic payments of specified state tax credits, including the credits allowed under Sections 17052, 17052.1, and 17052.2, shall be excluded from the definition of income for the purpose of determining eligibility for, or calculation of benefits under, any federal public assistance program, including, but not limited to, federal childcare assistance, federal housing assistance, LIHEAP, Medicaid, SNAP, Supplemental Security Income, TANF, or WIC.

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