

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN ASSEMBLY JUNE 12, 2007

AMENDED IN ASSEMBLY MAY 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1527**

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**Introduced by Assembly Member Arambula**

February 23, 2007

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An act to add and repeal Sections 17052.13, 17052.14, 23613, and 23614 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1527, as amended, Arambula. Income and corporation taxes: credits: California Cleantech Advantage Act of 2008.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including, by reference to a specified federal statute, a credit against taxes imposed by those laws for increasing research expenses, as defined.

This bill would authorize a credit against those taxes, in lieu of the credit currently authorized for qualified research and the transferable credit described below, for each taxable year beginning on or after January 1, 2009, and before January 1, 2013, in an amount equal to 20% of the qualified amount, as defined, paid or incurred by a qualified taxpayer for qualified research in California, as defined, related to cleantech industries. This bill would also authorize an alternative credit against those taxes for each taxable year beginning on or after January 1, 2009, and before January 1, 2013, in an amount equal to 10% of the qualified amount, as defined, paid or incurred by a qualified taxpayer

for qualified research in California, as defined, related to cleantech industries. This bill would allow ~~up to 50% of~~ any unused credits allowed to a qualified taxpayer under the 2nd alternative credit to be sold to, and used by, a qualified buyer, as defined, subject to specified conditions.

This bill would require specified information to be filed under penalty of perjury, thus imposing a state-mandated local program by expanding the scope of an existing crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 California Cleantech Advantage Act of 2008.
- 3 SEC. 2. (a) The Legislature finds and declares:
- 4 (1) That the enactment of Assembly Bill 32 (Chapter 488,
- 5 Statutes of 2006) made California a national and global policy
- 6 leader in the effort to reduce greenhouse gases that pose serious
- 7 threats to our natural environment and to our residents' health and
- 8 safety.
- 9 (2) That the prospect of global warming is very real and may
- 10 already be impacting our climate and ecosystems.
- 11 (3) That there is an urgent need to develop, market, and use
- 12 products, equipment, and services that reduce the formation of
- 13 greenhouse gases.
- 14 (b) The Legislature further finds and declares:
- 15 (1) That the level of national and global concern over greenhouse
- 16 gas emissions has begun to focus American technological research
- 17 and investment on developing industrial and consumer products
- 18 and processes that produce zero or ultra-low emissions of carbon
- 19 dioxide, the primary greenhouse gas.
- 20 (2) Nationally, in 2006, as much as \$63 billion was invested in
- 21 clean technologies, also called "cleantech."

1 (3) California received only 31 percent of venture capital  
2 invested nationally in cleantech, as compared to 63 percent of the  
3 nation’s venture capital invested in the computer industry.

4 (c) The Legislature further finds and declares:

5 (1) It is in the best interest of this state to expeditiously foster  
6 a competitive cleantech industry in California by offering investors  
7 financial incentives to spur cleantech research and development,  
8 production, and utilization of environmentally clean products.

9 (2) That growing cleantech investment will help create as many  
10 as 114,000 new, high-paying, skilled jobs, improve the state’s air  
11 and water quality, and offer business reliable and affordable sources  
12 of alternative energy.

13 (d) Therefore, it is the intent of the Legislature to enact and  
14 enhance targeted tax credits to increase investment in cleantech  
15 activities and the production of environmentally clean  
16 manufacturing equipment, as well as maintain and enhance this  
17 state’s competitive lead in attracting investment capital, clean  
18 industry, and high-paying, skilled jobs.

19 SEC. 3. Section 17052.13 is added to the Revenue and Taxation  
20 Code, to read:

21 17052.13. (a) (1) For each taxable year beginning on or after  
22 January 1, 2009, and before January 1, 2013, there shall be allowed  
23 to a qualified taxpayer as a credit against the “net tax,” as defined  
24 by Section 17039, an amount equal to 20 percent of the qualified  
25 amount.

26 (2) The credit allowed under this section shall be claimed by a  
27 qualified taxpayer by making an irrevocable election to claim this  
28 credit in lieu of the credit otherwise allowed pursuant to Section  
29 17052.12 or Section 17052.14.

30 (b) For purposes of this section:

31 (1) “Cleantech” means technologies identified by the California  
32 Council on Science and Technology, the implementation of which  
33 result in cleaner air and water, encourage the reuse of materials,  
34 and result in reductions of emissions of greenhouse gases, as that  
35 term is defined in subdivision (g) of Section 38505 of the Health  
36 and Safety Code, including, but not limited to, wind, solar, biomass,  
37 and hydrogen technologies.

38 (2) “Qualified amount” means an amount determined in  
39 accordance with Section 41 of the Internal Revenue Code, except:

1 (A) Qualified research shall include only research conducted  
2 in this state.

3 (B) Section 41(a)(2) and Section 41(a)(3) of the Internal  
4 Revenue Code shall not apply.

5 (3) “Qualified research” means research certified by the  
6 California Council on Science and Technology as cleantech  
7 research, except that “qualified research” expenses include only  
8 expenses for in-house research, within the meaning of Section  
9 41(b)(2) of the Internal Revenue Code.

10 (4) (A) “Qualified taxpayer” means any taxpayer who, for the  
11 taxable year, has received the certification described in subdivision  
12 (e) from the California Council on Science and Technology and  
13 otherwise satisfies the requirements of this section.

14 (B) A “qualified taxpayer” must be a business that has its  
15 principal office located in California, the officers of which are  
16 domiciled in California, and that, together with affiliates, has 100  
17 or fewer employees, and average annual gross receipts of ten  
18 million dollars (\$10,000,000) or less over the previous three taxable  
19 years.

20 (C) In the case of any passthrough entity, the determination of  
21 whether a taxpayer is a qualified taxpayer under this section shall  
22 be made at the entity level and any credit under this section is not  
23 allowed to the passthrough entity, but shall be passed through to  
24 the partners or shareholders in accordance with applicable  
25 provisions of Part 10 (commencing with Section 17001) or Part  
26 11 (commencing with Section 23001). For purposes of this  
27 paragraph, “passthrough entity” means any entity taxed as a  
28 partnership or “S” corporation.

29 (c) Section 41 of the Internal Revenue Code shall apply, and is  
30 modified as follows:

31 (1) The provisions of Section 41(c)(4) of the Internal Revenue  
32 Code, relating to the election to use an alternate incremental credit,  
33 shall not apply.

34 (2) Section 41(c)(7) of the Internal Revenue Code, relating to  
35 gross receipts, is modified to take into account only those gross  
36 receipts from the sale of property held primarily for sale to  
37 customers in the ordinary course of the taxpayer’s trade or business  
38 that is delivered or shipped to a purchaser within this state,  
39 regardless of freight on board point or any other condition of the  
40 sale.

1 (3) Section 41(g) of the Internal Revenue Code, relating to  
2 special rule for passthrough of credit, is modified by each of the  
3 following:

4 (A) The last sentence shall not apply.

5 (B) If the amount determined under Section 41(a) of the Internal  
6 Revenue Code for any taxable year exceeds the limitation of  
7 Section 41(g) of the Internal Revenue Code, that amount may be  
8 carried over to other taxable years under the rules of subdivision  
9 (f) (g), except that the limitation of Section 41(g) of the Internal  
10 Revenue Code shall be taken into account in each subsequent  
11 taxable year.

12 (4) Section 41(h) of the Internal Revenue Code, relating to  
13 termination, shall not apply.

14 (d) In order to be eligible for the credit allowed under this  
15 section, the qualified taxpayer shall do all of the following:

16 (1) (A) File an application for certification with the California  
17 Council on Science and Technology, in the form and manner as  
18 prescribed by the California Council on Science and Technology,  
19 that the taxpayer's research or planned research is cleantech  
20 research.

21 (B) The application for certification of cleantech research under  
22 subparagraph (A) must be filed with the California Council on  
23 Science and Technology before the close of the taxable year for  
24 which the credit allowed pursuant to this section will be claimed.

25 (2) Maintain and provide, upon request by the Franchise Tax  
26 Board, a copy of the application for certification and accompanying  
27 materials provided to the California Council on Science and  
28 Technology, along with substantiation, by adequate books and  
29 records, or by sufficient corroborating evidence, that the qualified  
30 research expenses on which the credit was calculated were actually  
31 paid or incurred in the amount claimed, and that the qualified  
32 research was performed in California.

33 (3) Provide a copy of the certification issued by the California  
34 Council on Science and Technology, as specified in subdivision  
35 (e), upon request, to the Franchise Tax Board. If the qualified  
36 taxpayer fails to provide the Franchise Tax Board with a copy of  
37 the certification, the credit shall be disallowed and any additional  
38 tax shall be assessed and collected pursuant to Section 19051.

39 (e) The California Council on Science and Technology shall do  
40 all of the following:

- 1 (1) Establish a procedure for qualified taxpayers to file with the  
 2 California Council on Science and Technology a written  
 3 application, on a form jointly prescribed by the California Council  
 4 on Science and Technology and the Franchise Tax Board, for  
 5 certification of cleantech research. The application shall be filed  
 6 under penalty of perjury and shall include, but not be limited to,  
 7 the following information:
- 8 (A) A written plan of research to be conducted or documentation  
 9 of ongoing research.
  - 10 (B) An application fee.
  - 11 (C) Any other information deemed relevant by the California  
 12 Council on Science and Technology.
- 13 (2) Determine and provide certification to applicants meeting  
 14 the requirements of this section.
- 15 (3) Process and approve, or reject, all applications ~~on a~~  
 16 ~~first-come-first-served basis for certification.~~
- 17 (4) No later than December 1, 2008, the California Council on  
 18 Science and Technology shall promulgate rules and regulations  
 19 necessary to establish procedures, processes, requirements, and  
 20 rules identified in or required to implement this section. Rules and  
 21 regulations may be adopted on an emergency basis if necessary to  
 22 meet the December 1, 2008, deadline. The California Council on  
 23 Science and Technology may adopt rules and regulations to more  
 24 narrowly define the terms listed in subdivision (b) to limit their  
 25 meaning, but may not expand the definition of any terms defined  
 26 in subdivision (b).
- 27 (5) Provide a list, at least annually, to the Franchise Tax Board,  
 28 in the form and manner agreed upon by the Franchise Tax Board,  
 29 of the names, taxpayer identification numbers, including taxpayer  
 30 identification numbers of each partner or shareholder, as applicable,  
 31 of approved applicants for certification pursuant to this section.
- 32 (6) *Provide, upon request from a taxpayer, a copy of a*  
 33 *certification previously issued to that taxpayer, if any.*
- 34 (7) *Identify and publish a list of technologies that comprise*  
 35 *cleantech research.*
- 36 (f) (1) The election described in subdivision (a) shall be made  
 37 on or included with the timely filed original return of the qualified  
 38 taxpayer, and shall be irrevocable once made.

1 (2) No other credit or deduction may be allowed for the same  
2 expenses upon which the credit provided for in subdivision (a) is  
3 allowed.

4 (g) In the case where the credit allowed under this section  
5 exceeds the “net tax,” the excess may be carried over to reduce  
6 the “net tax” in the following year, and the succeeding eight years  
7 if necessary, until the credit has been exhausted.

8 (h) This section shall remain in effect only until December 1,  
9 2013, and as of that date is repealed.

10 SEC. 4. Section 17052.14 is added to the Revenue and Taxation  
11 Code, to read:

12 17052.14. (a) (1) For each taxable year beginning on or after  
13 January 1, 2009, and before January 1, 2013, there shall be allowed  
14 to a qualified taxpayer as a credit against the “net tax,” as defined  
15 by Section 17039, an amount equal to 10 percent of the qualified  
16 amount, to the extent of a final allocation in accordance with this  
17 section.

18 (2) A claim for the credit allowed pursuant to this section shall  
19 be an election to claim this credit in lieu of the credit allowed  
20 pursuant to Section 17052.12 or Section 17052.13.

21 (b) For purposes of this section:

22 (1) “Budget” means an estimate of all expenses expected to be  
23 paid or incurred during the taxable year by the qualified taxpayer  
24 for all qualified research purposes.

25 (2) “Cleantech” means technologies ~~including, but not limited~~  
26 ~~to, wind, solar, biomass, and hydrogen technologies, the identified~~  
27 *by the California Council on Science and Technology, the*  
28 implementation of which result in cleaner air and water, encourage  
29 the reuse of materials, and result in reductions of emissions of  
30 greenhouse gases, as that term is defined in subdivision (g) of  
31 Section 38505 of the Health and Safety Code, including, but not  
32 limited to, wind, solar, biomass, and hydrogen technologies.

33 (3) (A) “Qualified amount” means an amount determined in  
34 accordance with Section 41 of the Internal Revenue Code, for  
35 qualified research conducted in this state.

36 (B) Paragraphs (2) and (3) of subdivision (a) of Section 41 of  
37 the Internal Revenue Code shall not apply in computing the  
38 qualified amount.

39 (4) (A) “Qualified research” means research certified by the  
40 California Council on Science and Technology as cleantech

1 research, except that “qualified research” expenses include only  
2 expenses for in-house research, within the meaning of Section  
3 41(b)(2) of the Internal Revenue Code, performed by employees  
4 of the qualified taxpayer and do not include contract research  
5 expenses, within the meaning of Section 41(b)(3) of the Internal  
6 Revenue Code.

7 (B) In order to receive an allocation of credit under this section  
8 the following conditions shall also be satisfied:

9 (i) The qualified taxpayer shall have a minimum budget of three  
10 hundred thousand dollars (\$300,000) for qualified research.

11 (ii) The actual expenses for qualified research conducted during  
12 the qualified taxpayer’s taxable year must meet or satisfy the  
13 minimum budget amount required by clause (i) at the time of  
14 application to the California Council on Science and Technology  
15 for a final allocation.

16 (5) (A) “Qualified taxpayer” means a taxpayer who, for the  
17 taxable year, has received a final allocation of credit from the  
18 California Council on Science and Technology pursuant to  
19 subdivision (e) and who otherwise satisfies the requirements of  
20 this section.

21 (B) A qualified taxpayer must be a business that has its principal  
22 office located in California, the officers of which are domiciled in  
23 California, and that, together with affiliates, has 100 or fewer  
24 employees, and average annual gross receipts of ten million dollars  
25 (\$10,000,000) or less over the previous ~~taxable three~~ *three taxable*  
26 years.

27 (C) In the case of any passthrough 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 is not  
30 allowed to the passthrough entity, but shall be passed through to  
31 the partners or shareholders in accordance with applicable  
32 provisions of Part 10 (commencing with Section 17001) or Part  
33 11 (commencing with Section 23001). For purposes of this  
34 paragraph, “passthrough entity” means any entity taxed as a  
35 partnership or “S” corporation.

36 (6) “Unused credit” means an amount of tax credit reflected in  
37 a final allocation to a qualified taxpayer pursuant to this section  
38 that has not been applied to reduce the “net tax,” as defined by  
39 Section 17039, in any taxable year.



1 (c) Section 41 of the Internal Revenue Code shall apply, and is  
2 modified as follows:

3 (1) The provisions of Section 41(c)(4) of the Internal Revenue  
4 Code, relating to the election to use an alternate incremental credit,  
5 shall not apply.

6 (2) Section 41(c)(7) of the Internal Revenue Code, relating to  
7 gross receipts, is modified to take into account only those gross  
8 receipts from the sale of property held primarily for sale to  
9 customers in the ordinary course of the taxpayer's trade or business  
10 that is delivered or shipped to a purchaser within this state,  
11 regardless of freight on board point or any other condition of the  
12 sale.

13 (3) Section 41(g) of the Internal Revenue Code, relating to  
14 special rule for passthrough of credit, is modified by each of the  
15 following:

16 (A) The last sentence shall not apply.

17 (B) If the amount determined under Section 41(a) of the Internal  
18 Revenue Code for any taxable year exceeds the limitation of  
19 Section 41(g) of the Internal Revenue Code, that amount may be  
20 carried over to other taxable years under the rules of subdivision  
21 ~~(i)~~ (j) except that the limitation of Section 41(g) of the Internal  
22 Revenue Code shall be taken into account in each subsequent  
23 taxable year.

24 (4) Section 41(h) of the Internal Revenue Code, relating to  
25 termination, shall not apply.

26 (d) In order to be eligible for the credit authorized by this  
27 section, the qualified taxpayer shall do all of the following:

28 (1) (A) File an application for *preliminary allocation* of the tax  
29 credit with the California Council on Science and Technology, in  
30 the form and manner as prescribed by the California Council on  
31 Science and Technology, for allocation of credit.

32 (B) The application for allocation of credit referenced in  
33 subparagraph (A) must be filed with the California Council on  
34 Science and Technology before the close of the taxable year for  
35 which the credit allowed pursuant to this section will be claimed.

36 (2) ~~File~~ *Within 90 days of the end of the taxpayer's taxable year,*  
37 *file* an application with the California Council on Science and  
38 Technology for final allocation of the credit based upon the  
39 taxpayer's conduct of qualified research during the taxable year.

1 (3) File an application with the California Council on Science  
2 and Technology for certification of the amount of unused credit  
3 which may be sold pursuant to subdivision (h).

4 (4) Provide the California Council on Science and Technology  
5 with substantiation, by adequate books and records, or by sufficient  
6 corroborating evidence, that the qualified research expenses on  
7 which the credit was calculated were actually paid or incurred in  
8 the amount claimed, and that the qualified research was performed  
9 in California.

10 (e) The California Council on Science and Technology shall do  
11 all of the following:

12 (1) (A) Establish procedures for qualified taxpayers to file with  
13 the California Council on Science and Technology a written  
14 application, on a form jointly prescribed by the California Council  
15 on Science and Technology and the Franchise Tax Board, for the  
16 following purposes:

- 17 (i) Certification of cleantech research.
- 18 (ii) Preliminary allocation of credit.
- 19 (iii) Final allocation of credit.
- 20 (iv) Certification of the amount of credit for sale pursuant to  
21 subdivision (h).

22 (B) The applications identified in subparagraph (A) shall be  
23 filed under penalty of perjury. The application for certification and  
24 allocation of credit shall include, but not be limited to, the  
25 following information:

- 26 (i) A written budget and plan for qualified research to be  
27 conducted, along with documentation of any ongoing research that  
28 may be determined to be qualified research.
- 29 (ii) An application fee.
- 30 (iii) Any other information deemed relevant by the California  
31 Council on Science and Technology.

32 (2) Allocate tax credits to qualified taxpayers, subject to the  
33 aggregate allocation limits in subdivision (f), and which shall not  
34 exceed the lesser of any of the following:

35 ~~(A) The amount of the credit tentatively allocated to the qualified  
36 taxpayer by the California Council on Science and Technology  
37 based on the initial application.~~

38 *(A) The amount of the credit preliminarily allocated to the  
39 qualified taxpayer by the California Council on Science and*

1 *Technology based on the initial application for preliminary*  
2 *allocation of the tax credit.*

3 (B) The amount of the credit calculated based on the actual costs  
4 of qualified research.

5 (C) One million dollars (\$1,000,000) per qualified taxpayer per  
6 qualified year.

7 (3) Determine and provide certification of the amount of unused  
8 credit available for sale pursuant to subdivision (h).

9 (4) (A) Accept and evaluate applications for certification and  
10 allocation. If the aggregate amount of tax credit applications  
11 exceeds the amount of credit available for allocation, credit shall  
12 be allocated on a first-come-first-served basis as determined by  
13 the order in which complete, approved applications for allocation  
14 are received.

15 (B) No certifications or allocations of credit may be made for  
16 activity conducted in a calendar year prior to the calendar year in  
17 which an application for certification and allocation is made.

18 (5) Issue a certificate to the qualified taxpayer setting forth the  
19 name of the qualified taxpayer and the total amount of the tax  
20 credit allocated to the qualified taxpayer.

21 (6) Issue a certificate to the qualified taxpayer setting forth the  
22 name of the qualified taxpayer and the total amount of unused  
23 credit available for sale pursuant to subdivision (h).

24 (7) (A) No later than December 1, 2008, the California Council  
25 on Science and Technology shall promulgate rules and regulations  
26 necessary to establish procedures, processes, requirements, and  
27 rules identified in or required to implement this section. Rules and  
28 regulations may be adopted on an emergency basis if necessary to  
29 meet the December 1, 2008, deadline. The California Council on  
30 Science and Technology may amend these rules and regulations  
31 as necessary. The California Council on Science and Technology  
32 may adopt rules and regulations to more narrowly define the terms  
33 listed in subdivision (b) to limit their meaning, but may not expand  
34 the definition of any terms defined in subdivision (b).

35 (B) Develop guidelines, in consultation with the Franchise Tax  
36 Board, for review of applications for final confirmation and of  
37 credit allocations supporting materials in a manner consistent with  
38 generally accepted accounting principles.

1 (8) Provide a list, at least annually, to the Franchise Tax Board,  
2 in the form and manner agreed upon by the Franchise Tax Board,  
3 information including, but not limited to, the following:

4 (A) The names, taxpayer identification numbers, including  
5 taxpayer identification numbers of each partner or shareholder, as  
6 applicable, of approved applicants for allocation of credit pursuant  
7 to this section.

8 (B) The amount of final credit allocation.

9 (C) The amount of unused credit certified for sale pursuant to  
10 subdivision (h).

11 (f) The aggregate amount of credits that may be allocated in  
12 any calendar year pursuant to this section and Section 23614 shall  
13 be an amount not to exceed the sum of all of the following:

14 (1) Twelve million five hundred thousand dollars (\$12,500,000)  
15 for each calendar quarter.

16 (2) The unallocated credit, if any, for the preceding calendar  
17 quarter.

18 (g) No other credit or deduction may be allowed for the same  
19 expenses upon which the credit provided for in subdivision (a) is  
20 allowed.

21 (h) (1) Notwithstanding any provisions of law to the contrary,  
22 and except as otherwise provided in this section, a qualified  
23 taxpayer may elect to sell unused credits to a buyer to claim against  
24 its “net tax,” as defined by Section 17039, or its “tax,” as defined  
25 in Section 23036, as the case may be, in any taxable year.

26 ~~(2) The amount of unused credits that may be sold by a qualified  
27 taxpayer under this section shall not exceed 50 percent of any  
28 unused credits allocated for a taxable year. The precise amount of  
29 credit that may be sold must be certified by the California Council  
30 on Science and Technology prior to sale.~~

31 (2) (A) *The amount of the unused credit that may be sold by a  
32 qualified taxpayer shall be certified by the California Council on  
33 Science and Technology prior to sale.*

34 (B) *In any case where an unused credit has been sold under the  
35 authority of this subdivision, the qualified taxpayer shall reduce  
36 the amount of its unused credit by the face amount of the unused  
37 credits sold, and the amount of that reduction shall not be available  
38 for application against the qualified taxpayer’s “net tax” in any  
39 taxable year, nor shall it be included in the amount of any credit  
40 carryover under subdivision (j).*

1 (3) The amount received by a qualified taxpayer for unused tax  
2 credits may not be less than 85 percent of the total face amount of  
3 any unused tax credits sold.

4 (4) A qualified taxpayer may only sell up to the amount certified  
5 as described in paragraph (2), but may not sell unused credits after  
6 the end of the taxable year beginning after the calendar year in  
7 which the qualified taxpayer was allocated the credit pursuant to  
8 this section.

9 (5) Unused credits may be sold by a qualified taxpayer for any  
10 taxable year beginning on or after January 1, 2010, but unused  
11 credits may not be applied by a buyer against the “net tax,” as  
12 defined by Section 17039, or the “tax,” as defined in Section 23036,  
13 as the case may be, for any taxable year beginning before January  
14 1, 2011.

15 (6) A buyer of unused credits from a qualified taxpayer may  
16 apply those credits against the “net tax,” as defined by Section  
17 17039, *or the “tax,” as defined by Section 23036, as applicable,*  
18 for the taxable year of the buyer immediately preceding the taxable  
19 year in which purchased, in the taxable year in which purchased,  
20 or the immediately succeeding taxable year.

21 (7) In no case may a buyer of unused credits from a qualified  
22 taxpayer further sell or otherwise transfer those credits.

23 (8) Both the qualified taxpayer and buyer of unused credits shall  
24 report to the Franchise Tax Board, in the form and manner specified  
25 by the Franchise Tax Board, all required information regarding  
26 the purchase and sale of unused credits under this section.

27 (9) Unused credits may not be claimed by a qualified buyer  
28 against its “net tax,” as defined by Section 17039, *or the “tax,”*  
29 *as defined by Section 23036, as applicable,* in any taxable year  
30 unless the requirement in paragraph ~~(7)~~ (2) has been satisfied.

31 (10) The Franchise Tax Board shall establish all necessary  
32 procedures and rules for qualified taxpayers to sell tax credits  
33 pursuant to this subdivision.

34 (11) Chapter 3.5 (commencing with Section 11340) of Part 1  
35 of Division 3 of Title 2 of the Government Code does not apply  
36 to any standard, criterion, procedure, determination, rule, notice,  
37 or guideline established or issued by the Franchise Tax Board  
38 pursuant to this subdivision.

39 (i) Any deduction otherwise allowed under this part for any  
40 amount paid or incurred by the taxpayer upon which the credit is

1 based shall be reduced by the amount of the credit allowed by this  
2 section.

3 (j) ~~In~~ Except as provided in paragraph (6) of subdivision (h)  
4 with respect to the application of unused credits by a buyer, in the  
5 case where the credit allowed under this section exceeds the “net  
6 tax,” the excess may be carried over to reduce the “net tax” in the  
7 following year, and the succeeding eight years if necessary, until  
8 the credit has been exhausted.

9 (k) This section shall remain in effect only until December 1,  
10 2013, and as of that date is repealed.

11 SEC. 5. Section 23613 is added to the Revenue and Taxation  
12 Code, to read:

13 23613. (a) (1) For each taxable year beginning on or after  
14 January 1, 2009, and before January 1, 2013, there shall be allowed  
15 to a qualified taxpayer as a credit against the “tax,” as defined by  
16 Section 23036, an amount equal to 20 percent of the qualified  
17 amount.

18 (2) The credit allowed under this section shall be claimed by a  
19 qualified taxpayer by making an irrevocable election to claim this  
20 credit in lieu of the credit otherwise allowed pursuant to Section  
21 23612 or Section 23614.

22 (b) For purposes of this section:

23 (1) “Cleantech” means technologies identified by the California  
24 Council on Science and Technology, the implementation of which  
25 result in cleaner air and water, encourage the reuse of materials,  
26 and result in reductions of emissions of greenhouse gases, as that  
27 term is defined in subdivision (g) of Section 38505 of the Health  
28 and Safety Code, including, but not limited to, wind, solar, biomass,  
29 and hydrogen technologies.

30 (2) “Qualified amount” means an amount determined in  
31 accordance with Section 41 of the Internal Revenue Code, except:

32 (A) Qualified research shall include only research conducted  
33 in this state.

34 (B) Section 41(a)(2) and Section 41(a)(3) of the Internal  
35 Revenue Code shall not apply.

36 (3) “Qualified research” means research certified by the  
37 California Council on Science and Technology as cleantech  
38 research, except that “qualified research” expenses include only  
39 expenses for in-house research, within the meaning of Section  
40 41(b)(2) of the Internal Revenue Code.

1 (4) (A) “Qualified taxpayer” means any taxpayer who, for the  
2 taxable year, has received the certification described in subdivision  
3 (e) from the California Council on Science and Technology and  
4 otherwise satisfies the requirements of this section.

5 (B) A qualified taxpayer must be a business that has its principal  
6 office located in California, the officers of which are domiciled in  
7 California, and that, together with affiliates, has 100 or fewer  
8 employees, and average annual gross receipts of ten million dollars  
9 (\$10,000,000) or less over the previous three taxable years.

10 (C) (i) In the case of any passthrough entity, the determination  
11 of whether a taxpayer is a qualified taxpayer under this section  
12 shall be made at the entity level and any credit under this section  
13 is not allowed to the passthrough entity, but shall be passed through  
14 to the partners or shareholders in accordance with applicable  
15 provisions of Part 10 (commencing with Section 17001) or Part  
16 11 (commencing with Section 23001). For purposes of this  
17 paragraph, “passthrough entity” means any entity taxed as a  
18 partnership or “S” corporation.

19 (ii) In the case of an “S” corporation, the credit allowed under  
20 this section shall not be used by an “S” corporation as a credit  
21 against a tax imposed under Chapter 4.5 (commencing with Section  
22 23800) of Part 11 of Division 2.

23 (c) Section 41 of the Internal Revenue Code shall apply, and is  
24 modified as follows:

25 (1) The provisions of Section 41(c)(4) of the Internal Revenue  
26 Code, relating to the election to use an alternate incremental credit,  
27 shall not apply.

28 (2) Section 41(c)(7) of the Internal Revenue Code, relating to  
29 gross receipts, is modified to take into account only those gross  
30 receipts from the sale of property held primarily for sale to  
31 customers in the ordinary course of the taxpayer’s trade or business  
32 that is delivered or shipped to a purchaser within this state,  
33 regardless of freight on board point or any other condition of the  
34 sale.

35 (3) Section 41(g) of the Internal Revenue Code, relating to  
36 special rule for passthrough of credit, is modified by each of the  
37 following:

38 (A) The last sentence shall not apply.

39 (B) If the amount determined under Section 41(a) of the Internal  
40 Revenue Code for any taxable year exceeds the limitation of

1 Section 41(g) of the Internal Revenue Code, that amount may be  
2 carried over to other taxable years under the rules of subdivision  
3 ~~(f)~~ (g), except that the limitation of Section 41(g) of the Internal  
4 Revenue Code shall be taken into account in each subsequent  
5 taxable year.

6 (4) Section 41(h) of the Internal Revenue Code, relating to  
7 termination, shall not apply.

8 (d) In order to be eligible for the credit allowed under this  
9 section, the qualified taxpayer shall do all of the following:

10 (1) (A) File an application for certification with the California  
11 Council on Science and Technology, in the form and manner as  
12 prescribed by the California Council on Science and Technology,  
13 that the taxpayer’s research or planned research is cleantech  
14 research.

15 (B) The application for certification of cleantech research under  
16 subparagraph (A) must be filed with the California Council on  
17 Science and Technology before the close of the taxable year for  
18 which the credit allowed pursuant to this section will be claimed.

19 (2) Maintain and provide, upon request by the Franchise Tax  
20 Board, a copy of the application for certification and accompanying  
21 materials provided to the California Council on Science and  
22 Technology, along with substantiation, by adequate books and  
23 records, or by sufficient corroborating evidence, that the qualified  
24 research expenses on which the credit was calculated were actually  
25 paid or incurred in the amount claimed, and that the qualified  
26 research was performed in California.

27 (3) Provide a copy of the certification issued by the California  
28 Council on Science and Technology, as specified in subdivision  
29 (e), upon request, to the Franchise Tax Board. If the qualified  
30 taxpayer fails to provide the Franchise Tax Board with a copy of  
31 the certification, the credit shall be disallowed and any additional  
32 tax shall be assessed and collected pursuant to Section 19051.

33 (e) The California Council on Science and Technology shall do  
34 all of the following:

35 (1) Establish a procedure for qualified taxpayers to file with the  
36 California Council on Science and Technology a written  
37 application, on a form jointly prescribed by the California Council  
38 on Science and Technology and the Franchise Tax Board, for  
39 certification of cleantech research. The application shall be filed



1 under penalty of perjury and shall include, but not be limited to,  
2 the following information:

3 (A) A written plan of research to be conducted or documentation  
4 of ongoing research.

5 (B) An application fee.

6 (C) Any other information deemed relevant by the California  
7 Council on Science and Technology.

8 (2) Determine and provide certification to applicants meeting  
9 the requirements of this section.

10 (3) Process and approve, or reject all applications ~~on a~~  
11 ~~first-come-first-served~~ basis for certification.

12 (4) No later than December 1, 2008, the California Council on  
13 Science and Technology shall promulgate rules and regulations  
14 necessary to establish procedures, processes, requirements, and  
15 rules identified in or required to implement this section. Rules and  
16 regulations may be adopted on an emergency basis if necessary to  
17 meet the December 1, 2008, deadline. The California Council on  
18 Science and Technology may adopt rules and regulations to more  
19 narrowly define the terms listed in subdivision (b) to limit their  
20 meaning, but may not expand the definition of any terms defined  
21 in subdivision (b).

22 (5) Provide a list, at least annually, to the Franchise Tax Board,  
23 in the form and manner agreed upon by the Franchise Tax Board,  
24 of the names, taxpayer identification numbers, including taxpayer  
25 identification numbers of each partner or shareholder, as applicable,  
26 of approved applicants for certification pursuant to this section.

27 (6) *Provide, upon request from a taxpayer, a copy of a*  
28 *certification previously issued to that taxpayer, if any.*

29 (7) *Identify and publish a list of technologies that comprise*  
30 *cleantech research.*

31 (f) (1) The election described in subdivision (a) shall be made  
32 on or included with the timely filed original return of the qualified  
33 taxpayer, and shall be irrevocable once made.

34 (2) No other credit or deduction may be allowed for the same  
35 expenses upon which the credit provided for in subdivision (a) is  
36 allowed.

37 (g) In the case where the credit allowed under this section  
38 exceeds the “tax,” the excess may be carried over to reduce the  
39 “tax” in the following year, and the succeeding eight years if  
40 necessary, until the credit has been exhausted.

1 (h) This section shall remain in effect only until December 1,  
2 2013, and as of that date is repealed.

3 SEC. 6. Section 23614 is added to the Revenue and Taxation  
4 Code, to read:

5 23614. (a) (1) For each taxable year beginning on or after  
6 January 1, 2009, and before January 1, 2013, there shall be allowed  
7 to a qualified taxpayer as a credit against the “tax,” as defined by  
8 Section 23036, an amount equal to 10 percent of the qualified  
9 amount, to the extent of a final allocation in accordance with this  
10 section.

11 (2) A claim for the credit allowed pursuant to this section shall  
12 be an election to claim this credit in lieu of the credit allowed  
13 pursuant to Section 23612 or Section 23613.

14 (b) For purposes of this section:

15 (1) “Budget” means an estimate of all expenses expected to be  
16 paid or incurred during the taxable year by the qualified taxpayer  
17 for all qualified research purposes.

18 (2) “Cleantech” means technologies ~~including, but not limited~~  
19 ~~to, wind, solar, biomass, and hydrogen technologies, the identified~~  
20 *by the California Council on Science and Technology, the*  
21 *implementation of which result in cleaner air and water, encourage*  
22 *the reuse of materials, and result in reductions of emissions of*  
23 *greenhouse gases, as that term is defined in subdivision (g) of*  
24 *Section 38505 of the Health and Safety Code, including, but not*  
25 *limited to, wind, solar, biomass, and hydrogen technologies.*

26 (3) (A) “Qualified amount” means an amount determined in  
27 accordance with Section 41 of the Internal Revenue Code, for  
28 qualified research conducted in this state.

29 (B) Paragraphs (2) and (3) of subdivision (a) of Section 41 of  
30 the Internal Revenue Code shall not apply in computing the  
31 qualified amount.

32 (4) (A) “Qualified research” means research certified by the  
33 California Council on Science and Technology as cleantech  
34 research, except that “qualified research” expenses include only  
35 expenses for in-house research, within the meaning of Section  
36 41(b)(2) of the Internal Revenue Code, performed by employees  
37 of the qualified taxpayer and do not include contract research  
38 expenses, within the meaning of Section 41(b)(3) of the Internal  
39 Revenue Code.

1 (B) In order to receive an allocation of credit under this section  
2 the following conditions shall also be satisfied:

3 (i) The qualified taxpayer shall have a minimum budget of three  
4 hundred thousand dollars (\$300,000) for qualified research.

5 (ii) The actual expenses for qualified research conducted during  
6 the qualified taxpayer's taxable year must meet or satisfy the  
7 minimum budget amount required by clause (i) at the time of  
8 application to the California Council on Science and Technology  
9 for a final allocation.

10 (5) (A) "Qualified taxpayer" means a taxpayer who, for the  
11 taxable year, has received a final allocation of credit from the  
12 California Council on Science and Technology pursuant to  
13 subdivision (e) and who otherwise satisfies the requirements of  
14 this section.

15 (B) A qualified taxpayer must be a business that has its principal  
16 office located in California, the officers of which are domiciled in  
17 California, and that, together with affiliates, has 100 or fewer  
18 employees, and average annual gross receipts of ten million dollars  
19 (\$10,000,000) or less over the previous ~~taxable three~~ *three taxable*  
20 years.

21 (C) (i) In the case of any passthrough entity, the determination  
22 of whether a taxpayer is a qualified taxpayer under this section  
23 shall be made at the entity level and any credit under this section  
24 is not allowed to the passthrough entity, but shall be passed through  
25 to the partners or shareholders in accordance with applicable  
26 provisions of Part 10 (commencing with Section 17001) or Part  
27 11 (commencing with Section 23001). For purposes of this  
28 paragraph, "passthrough entity" means any entity taxed as a  
29 partnership or "S" corporation.

30 (ii) In the case of an "S" corporation, the credit allowed under  
31 this section shall not be used by an "S" corporation as a credit  
32 against a tax imposed under Chapter 4.5 (commencing with Section  
33 23800) of Part 11 of Division 2.

34 (6) "Unused credit" means an amount of tax credit reflected in  
35 a final allocation to a qualified taxpayer pursuant to this section  
36 that has not been applied to reduce the "tax," as defined by Section  
37 23036, in any taxable year.

38 (c) Section 41 of the Internal Revenue Code shall apply, and is  
39 modified as follows:

1 (1) The provisions of Section 41(c)(4) of the Internal Revenue  
2 Code, relating to the election to use an alternate incremental credit,  
3 shall not apply.

4 (2) Section 41(c)(7) of the Internal Revenue Code, relating to  
5 gross receipts, is modified to take into account only those gross  
6 receipts from the sale of property held primarily for sale to  
7 customers in the ordinary course of the taxpayer's trade or business  
8 that is delivered or shipped to a purchaser within this state,  
9 regardless of freight on board point or any other condition of the  
10 sale.

11 (3) Section 41(g) of the Internal Revenue Code, relating to  
12 special rule for passthrough of credit, is modified by each of the  
13 following:

14 (A) The last sentence shall not apply.

15 (B) If the amount determined under Section 41(a) of the Internal  
16 Revenue Code for any taxable year exceeds the limitation of  
17 Section 41(g) of the Internal Revenue Code, that amount may be  
18 carried over to other taxable years under the rules of subdivision  
19 (†) (j) except that the limitation of Section 41(g) of the Internal  
20 Revenue Code shall be taken into account in each subsequent  
21 taxable year.

22 (4) Section 41(h) of the Internal Revenue Code, relating to  
23 termination, shall not apply.

24 (d) In order to be eligible for the credit authorized by this  
25 section, the qualified taxpayer shall do all of the following:

26 (1) (A) File an application for *preliminary allocation* of the tax  
27 credit with the California Council on Science and Technology, in  
28 the form and manner as prescribed by the California Council on  
29 Science and Technology, for allocation of credit.

30 (B) The application for allocation of credit referenced in  
31 subparagraph (A) must be filed with the California Council on  
32 Science and Technology before the close of the taxable year for  
33 which the credit allowed pursuant to this section will be claimed.

34 (2) ~~File~~ *Within 90 days of the end of the taxpayer's taxable year,*  
35 *file* an application with the California Council on Science and  
36 Technology for final allocation of the credit based upon the  
37 taxpayer's conduct of qualified research during the taxable year.

38 (3) File an application with the California Council on Science  
39 and Technology for certification of the amount of unused credit  
40 which may be sold pursuant to subdivision (h).

1 (4) Provide the California Council on Science and Technology  
2 with substantiation, by adequate books and records, or by sufficient  
3 corroborating evidence, that the qualified research expenses on  
4 which the credit was calculated were actually paid or incurred in  
5 the amount claimed, and that the qualified research was performed  
6 in California.

7 (e) The California Council on Science and Technology shall do  
8 all of the following:

9 (1) (A) Establish procedures for qualified taxpayers to file with  
10 the California Council on Science and Technology a written  
11 application, on a form jointly prescribed by the California Council  
12 on Science and Technology and the Franchise Tax Board, for the  
13 following purposes:

14 (i) Certification of cleantech research.

15 (ii) Preliminary allocation of credit.

16 (iii) Final allocation of credit.

17 (iv) Certification of the amount of credit for sale pursuant to  
18 subdivision (h).

19 (B) The applications identified in subparagraph (A) shall be  
20 filed under penalty of perjury. The application for certification and  
21 allocation of credit shall include, but not be limited to, the  
22 following information:

23 (i) A written budget and plan for qualified research to be  
24 conducted, along with documentation of any ongoing research that  
25 may be determined to be qualified research.

26 (ii) An application fee.

27 (iii) Any other information deemed relevant by the California  
28 Council on Science and Technology.

29 (2) Allocate tax credits to qualified taxpayers, subject to the  
30 aggregate allocation limits in subdivision (f), and which shall not  
31 exceed the lesser of any of the following:

32 ~~(A) The amount of the credit tentatively allocated to the qualified  
33 taxpayer by the California Council on Science and Technology  
34 based on the initial application.~~

35 *(A) The amount of the credit preliminarily allocated to the  
36 qualified taxpayer by the California Council on Science and  
37 Technology based on the initial application for preliminary  
38 allocation of tax credit.*

39 (B) The amount of the credit calculated based on the actual costs  
40 of qualified research.

- 1 (C) One million dollars (\$1,000,000) per qualified taxpayer per  
2 qualified year.
- 3 (3) Determine and provide certification of the amount of unused  
4 credit available for sale pursuant to subdivision (h).
- 5 (4) (A) Accept and evaluate applications for certification and  
6 allocation. If the aggregate amount of tax credit applications  
7 exceeds the amount of credit available for allocation, credit shall  
8 be allocated on a first-come-first-served basis as determined by  
9 the order in which complete, approved applications for allocation  
10 are received.
- 11 (B) No certifications or allocations of credit may be made for  
12 activity conducted in a calendar year prior to the calendar year in  
13 which an application for certification and allocation is made.
- 14 (5) Issue a certificate to the qualified taxpayer setting forth the  
15 name of the qualified taxpayer and the total amount of the tax  
16 credit allocated to the qualified taxpayer.
- 17 (6) Issue a certificate to the qualified taxpayer setting forth the  
18 name of the qualified taxpayer and the total amount of unused  
19 credit available for sale pursuant to subdivision (h).
- 20 (7) (A) No later than December 1, 2008, the California Council  
21 on Science and Technology shall promulgate rules and regulations  
22 necessary to establish procedures, processes, requirements, and  
23 rules identified in or required to implement this section. Rules and  
24 regulations may be adopted on an emergency basis if necessary to  
25 meet the December 1, 2008, deadline. The California Council on  
26 Science and Technology may amend these rules and regulations  
27 as necessary. The California Council on Science and Technology  
28 may adopt rules and regulations to more narrowly define the terms  
29 listed in subdivision (b) to limit their meaning, but may not expand  
30 the definition of any terms defined in subdivision (b).
- 31 (B) Develop guidelines, in consultation with the Franchise Tax  
32 Board, for review of applications for final confirmation and of  
33 credit allocations supporting materials in a manner consistent with  
34 generally accepted accounting principles.
- 35 (8) Provide a list, at least annually, to the Franchise Tax Board,  
36 in the form and manner agreed upon by the Franchise Tax Board,  
37 information including, but not limited to, the following:  
38 (A) The names, taxpayer identification numbers, including  
39 taxpayer identification numbers of each partner or shareholder, as

1 applicable, of approved applicants for allocation of credit pursuant  
2 to this section.

3 (B) The amount of final credit allocation.

4 (C) The amount of unused credit certified for sale pursuant to  
5 subdivision (h).

6 (f) The aggregate amount of credits that may be allocated in  
7 any calendar year pursuant to this section and Section 17053.14  
8 shall be an amount not to exceed the sum of all of the following:

9 (1) Twelve million five hundred thousand dollars (\$12,500,000)  
10 for each calendar quarter.

11 (2) The unallocated credit, if any, for the preceding calendar  
12 quarter.

13 (g) No other credit or deduction may be allowed for the same  
14 expenses upon which the credit provided for in subdivision (a) is  
15 allowed.

16 (h) (1) Notwithstanding any provisions of law to the contrary,  
17 and except as otherwise provided in this section, a qualified  
18 taxpayer may elect to sell unused credits to a buyer to claim against  
19 its “tax,” as defined by Section 23036, or its “net tax,” as defined  
20 in Section 17039, as the case may be, in any taxable year.

21 ~~(2) The amount of unused credits that may be sold by a qualified  
22 taxpayer under this section shall not exceed 50 percent of any  
23 unused credits allocated for a taxable year. The precise amount of  
24 credit that may be sold must be certified by the California Council  
25 on Science and Technology prior to sale.~~

26 *(2) (A) The amount of the unused credit that may be sold by a  
27 qualified taxpayer shall be certified by the California Council on  
28 Science and Technology prior to sale.*

29 *(B) In any case where an unused credit has been sold under the  
30 authority of this subdivision, the qualified taxpayer shall reduce  
31 the amount of its unused credit by the face amount of the unused  
32 credits sold, and the amount of that reduction shall not be available  
33 for application against the qualified taxpayer’s “tax” in any  
34 taxable year, nor shall it be included in the amount of any credit  
35 carryover under subdivision (j).*

36 (3) The amount received by a qualified taxpayer for unused tax  
37 credits may not be less than 85 percent of the total face amount of  
38 any unused tax credits sold.

39 (4) A qualified taxpayer may only sell up to the amount certified  
40 as described in paragraph (2), but may not sell unused credits after

1 the end of the taxable year beginning after the calendar year in  
 2 which the qualified taxpayer was allocated the credit pursuant to  
 3 this section.

4 (5) Unused credits may be sold by a qualified taxpayer for any  
 5 taxable year beginning on or after January 1, 2010, but unused  
 6 credits may not be applied by a buyer against the “net tax,” as  
 7 defined by Section 17039, or the “tax,” as defined in Section 23036,  
 8 as the case may be, for any taxable year beginning before January  
 9 1, 2011.

10 (6) A buyer of unused credits from a qualified taxpayer may  
 11 apply those credits against the “net tax,” as defined by Section  
 12 17039, *or the “tax,” as defined by Section 23036, as applicable,*  
 13 for the taxable year of the buyer immediately preceding the taxable  
 14 year in which purchased, in the taxable year in which purchased,  
 15 or the immediately succeeding taxable year.

16 (7) In no case may a buyer of unused credits from a qualified  
 17 taxpayer further sell or otherwise transfer those credits.

18 (8) Both the qualified taxpayer and buyer of unused credits shall  
 19 report to the Franchise Tax Board, in the form and manner specified  
 20 by the Franchise Tax Board, all required information regarding  
 21 the purchase and sale of unused credits under this section.

22 (9) Unused credits may not be claimed by a qualified buyer  
 23 against its “tax,” as defined by Section 23036, *or the “net tax,”*  
 24 *as defined by Section 17039, as applicable,* in any taxable year  
 25 unless the requirement in paragraph ~~(7)~~ (2) has been satisfied.

26 (10) The Franchise Tax Board shall establish all necessary  
 27 procedures and rules for qualified taxpayers to sell tax credits  
 28 pursuant to this subdivision.

29 (11) Chapter 3.5 (commencing with Section 11340) of Part 1  
 30 of Division 3 of Title 2 of the Government Code does not apply  
 31 to any standard, criterion, procedure, determination, rule, notice,  
 32 or guideline established or issued by the Franchise Tax Board  
 33 pursuant to this subdivision.

34 (i) Any deduction otherwise allowed under this part for any  
 35 amount paid or incurred by the taxpayer upon which the credit is  
 36 based shall be reduced by the amount of the credit allowed by this  
 37 section.

38 (j) ~~It~~ *Except as provided in paragraph (6) of subdivision (h)*  
 39 *with respect to the application of unused credits by a buyer, in the*  
 40 *case where the credit allowed under this section exceeds the “net*



1 tax,” the excess may be carried over to reduce the “net tax” in the  
2 following year, and the succeeding eight years if necessary, until  
3 the credit has been exhausted.

4 (k) This section shall remain in effect only until December 1,  
5 2013, and as of that date is repealed. However, any unused credit  
6 may be carried over and used after that repeal date in accordance  
7 with subdivision (i).

8 SEC. 7. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.

17 SEC. 8. This act provides for a tax levy within the meaning of  
18 Article IV of the Constitution and shall go into immediate effect.

O