

AMENDED IN SENATE MAY 6, 2008
AMENDED IN SENATE MARCH 28, 2008

SENATE BILL

No. 1484

Introduced by Senator Alquist

February 21, 2008

An act to amend Sections 17052.12, 17260, 17681, ~~23609, 24423, and 24831~~ of, to add and repeal 17681.6, 23609, 24423, 24831, and 24831.6 of, to amend and repeal Sections 17052.8 and 23604 of, and to add Sections 17059 and 23659 of, and to repeal Sections 17052.8, 17681.6, 23604, and 24831.6 of, to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1484, as amended, Alquist. Income and corporation taxes: oil producers: credits: clean energy technology.

The Personal Income Tax Law and the Corporation Tax Law allow various credits and deductions in computing the income that is subject to the taxes imposed by those laws, including credits and deductions allowed to taxpayers engaged in the business of oil production.

This bill would disallow those credits and deductions, *for taxable years beginning on and after January 1, 2011*, allowed to taxpayers engaged in the business of oil production.

This bill would, under both laws, for taxable years beginning on or after January 1, 2011, ~~and ending before January 1, 2017~~, allow a credit to a qualified taxpayer, as defined, equal to 50% of the taxpayer's qualified costs related to clean energy technology, as provided, up to ~~\$10,000,000~~ \$10,000,000.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 17052.8 of the Revenue and Taxation
2 Code is amended to read:

3 17052.8. For each taxable year beginning on or after January
4 1, 1996, there shall be allowed as a credit against the “net tax” (as
5 defined by Section 17039) an amount determined as follows:

6 (a) (1) (A) The amount of the credit shall be equal to one-third
7 of the federal credit computed in accordance with Section 43 of
8 the Internal Revenue Code.

9 (B) If a taxpayer elects, under Section 43(e) of the Internal
10 Revenue Code, not to apply Section 43 for federal tax purposes,
11 this election is binding and irrevocable for state purposes, and for
12 purposes of subparagraph (A), the federal credit shall be zero.

13 (2) “Qualified enhanced oil recovery project” shall include only
14 projects located within California.

15 (3) The credit allowed under this subdivision shall not be
16 allowed to any taxpayer for whom a depletion allowance is not
17 permitted to be computed under Section 613 of the Internal
18 Revenue Code by reason of paragraphs (2), (3), or (4) of subsection
19 (d) of Section 613A of the Internal Revenue Code.

20 (b) Section 43(d) of the Internal Revenue Code shall apply.

21 (c) In the case where the credit allowed by this section exceeds
22 the “net tax,” the excess may be carried over to reduce the “net
23 tax” for the succeeding 15 years.

24 (d) In the case where property which qualifies as part of the
25 taxpayer’s “qualified enhanced oil recovery costs” also qualifies
26 for a credit under any other section in this part, the taxpayer shall
27 make an election on its original return as to which section applies
28 to all costs allocable to that item of qualified property. Any election
29 made under this section, and any specification contained in that
30 election, may not be revoked except with the consent of the
31 Franchise Tax Board.

32 (e) No deduction shall be allowed as otherwise provided in this
33 part for that portion of any costs paid or incurred for the taxable
34 year which is equal to the amount of the credit allowed under this
35 section attributable to those costs.

1 (f) The basis of any property for which a credit is allowed under
2 this section shall be reduced by the amount of the credit attributable
3 to the property. The basis adjustment shall be made for the taxable
4 year for which the credit is allowed.

5 (g) No credit may be claimed under this section with respect to
6 any amount for which any other credit has been claimed under this
7 part.

8 (h) *This section shall remain in effect only until January 1, 2001,*
9 *and as of that date is repealed, unless a later enacted statute, that*
10 *is enacted before January 1, 2011, deletes or extends that date.*

11 ~~SECTION 1. Section 17052.8 of the Revenue and Taxation~~
12 ~~Code is repealed.~~

13 SEC. 2. Section 17052.12 of the Revenue and Taxation Code
14 is amended to read:

15 17052.12. For each taxable year beginning on or after January
16 1, 1987, there shall be allowed as a credit against the “net tax” (as
17 defined by Section 17039) for the taxable year an amount
18 determined in accordance with Section 41 of the Internal Revenue
19 Code, except as follows:

20 (a) For each taxable year beginning before January 1, 1997, the
21 reference to “20 percent” in Section 41(a)(1) of the Internal
22 Revenue Code is modified to read “8 percent.”

23 (b) (1) For each taxable year beginning on or after January 1,
24 1997, and before January 1, 1999, the reference to “20 percent”
25 in Section 41(a)(1) of the Internal Revenue Code is modified to
26 read “11 percent.”

27 (2) For each taxable year beginning on or after January 1, 1999,
28 and before January 1, 2000, the reference to “20 percent” in Section
29 41(a)(1) of the Internal Revenue Code is modified to read “12
30 percent.”

31 (3) For each taxable year beginning on or after January 1, 2000,
32 the reference to “20 percent” in Section 41(a)(1) of the Internal
33 Revenue Code is modified to read “15 percent.”

34 (c) Section 41(a)(2) of the Internal Revenue Code, relating to
35 basic research payments, shall not apply.

36 (d) “Qualified research” shall include only research conducted
37 in California.

38 (e) In the case where the credit allowed under this section
39 exceeds the “net tax,” the excess may be carried over to reduce

1 the “net tax” in the following year, and succeeding years if
2 necessary, until the credit has been exhausted.

3 (f) (1) With respect to any expense paid or incurred after the
4 operative date of Section 6378, Section 41(b)(1) of the Internal
5 Revenue Code is modified to exclude from the definition of
6 “qualified research expense” any amount paid or incurred for
7 tangible personal property that is eligible for the exemption from
8 sales or use tax provided by Section 6378.

9 (2) For each taxable year beginning on or after January 1, 1998,
10 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
11 Internal Revenue Code, relating to contract research expenses, is
12 modified to read “this part or Part 11 (commencing with Section
13 23001).”

14 (g) (1) For each taxable year beginning on or after January 1,
15 2000:

16 (A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i)
17 of the Internal Revenue Code is modified to read “one and
18 forty-nine hundredths of one percent.”

19 (B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of
20 the Internal Revenue Code is modified to read “one and
21 ninety-eight hundredths of one percent.”

22 (C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii)
23 of the Internal Revenue Code is modified to read “two and
24 forty-eight hundredths of one percent.”

25 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
26 election under Section 41(c)(4)(A) of the Internal Revenue Code
27 may be made for any taxable year of the taxpayer beginning on or
28 after January 1, 1998. That election shall apply to the taxable year
29 for which made and all succeeding taxable years unless revoked
30 with the consent of the Franchise Tax Board.

31 (3) Section 41(c)(6) of the Internal Revenue Code, relating to
32 gross receipts, is modified to take into account only those gross
33 receipts from the sale of property held primarily for sale to
34 customers in the ordinary course of the taxpayer’s trade or business
35 that is delivered or shipped to a purchaser within this state,
36 regardless of f.o.b. point or any other condition of the sale.

37 (h) Section 41(h) of the Internal Revenue Code, relating to
38 termination, shall not apply.

1 (i) 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 (1) The last sentence shall not apply.

5 (2) 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 (e); 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 (j) ~~This~~ *For taxable years beginning on and after January 1,*
13 *2011, this section shall not apply to a taxpayer engaged in the*
14 *business of oil production.*

15 SEC. 3. Section 17059 is added to the Revenue and Taxation
16 Code, to read:

17 17059. (a) (1) For taxable years beginning on and after January
18 1, 2011, ~~and ending before January 1, 2016,~~ subject to the
19 ~~limitation in paragraph (2)~~ *limitations in paragraphs (2) and (3),*
20 there shall be allowed to a qualified taxpayer as a credit against
21 the “net tax,” as defined in Section 17039, an amount equal to 50
22 percent of the qualified amount.

23 ~~(2) The credit allowed by paragraph (1) shall not exceed ten~~
24 ~~million dollars (\$10,000,000).~~

25 *(2) The credit allowed to a qualified taxpayer under this section*
26 *for any taxable year shall not exceed ten million dollars*
27 *(\$10,000,000).*

28 *(3) The aggregate amount of credits that may be allocated to*
29 *all qualified taxpayers in any taxable year pursuant to this section*
30 *and Section 23659 shall not exceed the sum of thirty million dollars*
31 *(\$30,000,000).*

32 (b) For purposes of this section:

33 (1) ~~“Clean energy technology” means an energy supply or~~
34 ~~end-use technology that, over its life cycle and compared to a~~
35 ~~similar technology already in commercial use in the United States,~~
36 ~~meets all of the following conditions:~~

37 ~~(A) Is reliable, affordable, economically viable, socially~~
38 ~~acceptable, and compatible with the needs and norms of California~~
39 ~~and the United States.~~

1 ~~(B) Results in reduced emissions of greenhouse gases, increased~~
2 ~~geological sequestration, or energy efficiency.~~

3 ~~(C) May substantially lower emissions of air pollutants and~~
4 ~~generate substantially smaller or less hazardous quantities of solid~~
5 ~~or liquid waste.~~

6 *(1) “Clean energy technology” means any renewable energy*
7 *technology or energy supply or end-use technology whose electrical*
8 *efficiency is at least 40 percent higher heating value as determined*
9 *by the Public Utilities Commission.*

10 *(2) “Qualified amount” means the total amount paid or incurred*
11 *by the qualified taxpayer for either of the following:*

12 *(A) ~~Machinery~~ New machinery, equipment, or devices, or any*
13 *addition to, reconstruction of, or improvement of, new machinery,*
14 *equipment, or devices that are acquired, constructed, or installed*
15 *in connection with the processing or manufacturing of clean energy*
16 *technology ~~that are located and remain within California.~~ that are*
17 *located and remain within California for a period of two years*
18 *from the date placed in service. For purposes of this subparagraph,*
19 *“new machinery, equipment, or devices” means any machinery,*
20 *equipment, or devices whose original use commences with use by*
21 *the qualified taxpayer.*

22 *(B) The Public Utilities Commission shall certify machinery,*
23 *equipment, or devices for which a credit is allowable under this*
24 *section.*

25 ~~(B)~~

26 *(C) Capital investments in a qualified facility.*

27 *(3) “Qualified facility” means a facility that meets both of the*
28 *following conditions:*

29 *(A) The qualified taxpayer has provided the California Energy*
30 *Commission with all the pertinent information needed to certify*
31 *the facility and remitted any certification fees to the California*
32 *Energy Commission.*

33 *(B) The California Energy Commission has certified the facility*
34 *as a facility where all of the processed or manufactured items are*
35 *clean energy technology, excluding any byproducts, like waste*
36 *heat, chemicals, or recyclable materials that may be sold.*

37 ~~*(4) “Qualified taxpayer” means a taxpayer who is engaged in*~~
38 ~~*those lines of business described in Codes 3111 to 3399, inclusive,*~~
39 ~~*of the North American Industrial Classification System (NAICS)*~~
40 ~~*published by the United States Office of Management and Budget*~~

1 ~~(OMB), 2007 edition, on or after January 1, 2009 who has been~~
2 ~~engaged in the processing or manufacture of clean energy~~
3 ~~technology products in this state for five years or less.~~

4 (4) *“Qualified taxpayer” means a taxpayer engaged in the*
5 *business of the processing or manufacture of clean energy*
6 *technology products for a period of not more than five years, as*
7 *certified by the Public Utilities Commission.*

8 (c) No credit shall be allowed pursuant to this section unless
9 the qualified taxpayer provides, upon the request of the Franchise
10 Tax Board, any additional information relating to the credit for
11 disclosure to the Legislative Analyst for the limited purpose of
12 evaluation of the impact and effectiveness of the credit.

13 (d) *If the property described in subparagraph (A) of paragraph*
14 *(2) of subdivision (b) is removed from California prior to the*
15 *expiration of the two-year period required by that subparagraph,*
16 *there shall be added to the “net tax,” as defined by Section 17039,*
17 *for the taxable year in which the property is removed, an amount*
18 *equal to 50 percent of the credit allowed.*

19 ~~(d)~~

20 (e) The Franchise Tax Board shall promulgate rules and
21 regulations necessary to establish procedures, processes,
22 requirements, and rules required to implement this section.

23 ~~(e)~~

24 (f) In the case where the credit allowed exceeds the “net tax,”
25 the excess may be carried over to reduce the “net tax” in the
26 following year, and *the succeeding seven years if necessary, until*
27 *the credit has been exhausted.*

28 ~~(f) This section shall remain in effect only until January 1, 2017,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2017, deletes or extends that date.~~

31 ~~SEC. 4. Section 17260 of the Revenue and Taxation Code is~~
32 ~~amended to read:~~

33 ~~17260. (a) No deduction shall be allowed for expenditures for~~
34 ~~tertiary injectants as provided by Section 193 of the Internal~~
35 ~~Revenue Code.~~

36 ~~(b) Section 263 of the Internal Revenue Code shall apply to any~~
37 ~~oil producer.~~

38 ~~SEC. 4. Section 17260 of the Revenue and Taxation Code is~~
39 ~~amended to read:~~

1 17260. (a) No deduction, other than depreciation, shall be
2 allowed for expenditures for tertiary injectants as provided by
3 Section 193 of the Internal Revenue Code.

4 (b) Section 263(a) of the Internal Revenue Code shall not apply
5 to expenditures for which a deduction is allowed under Section
6 17266 or 17267.2.

7 (c) *Section 263(c) of the Internal Revenue Code shall not apply*
8 *to costs paid or incurred for taxable years beginning on and after*
9 *January 1, 2011, by a taxpayer engaged in the business of oil*
10 *production.*

11 SEC. 5. Section 17681 of the Revenue and Taxation Code is
12 amended to read:

13 17681. (a) Subchapter I of Chapter 1 of Subtitle A of the
14 Internal Revenue Code, relating to natural resources, shall apply,
15 except as otherwise provided.

16 (b) *For taxable years beginning on and after January 1, 2011,*
17 *Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue*
18 *Code shall not apply to a taxpayer engaged in the business of oil*
19 *production.*

20 ~~SEC. 6. Section 17681.6 of the Revenue and Taxation Code~~
21 ~~is repealed.~~

22 ~~SEC. 7. Section 23604 of the Revenue and Taxation Code is~~
23 ~~repealed.~~

24 *SEC. 6. Section 17681.6 of the Revenue and Taxation Code is*
25 *amended to read:*

26 17681.6. *For taxable years beginning on and after January 1,*
27 *2011, Section 613A(c)(6)(H) of the Internal Revenue Code, relating*
28 *to temporary suspension of taxable income limit with respect to*
29 *marginal production, shall not apply.*

30 *SEC. 7. Section 23604 of the Revenue and Taxation Code is*
31 *amended to read:*

32 23604. For each taxable year beginning on or after January 1,
33 1996, there shall be allowed as a credit against the “tax” (as defined
34 by Section 23036) an amount determined as follows:

35 (a) (1) (A) The amount of the credit shall be equal to one-third
36 of the federal credit computed in accordance with Section 43 of
37 the Internal Revenue Code.

38 (B) If a taxpayer elects, under Section 43(e) of the Internal
39 Revenue Code, not to apply Section 43 for federal tax purposes,

1 this election is binding and irrevocable for state purposes, and for
2 purposes of subparagraph (A), the federal credit shall be zero.

3 (2) “Qualified enhanced oil recovery project” shall include only
4 projects located within California.

5 (3) The credit allowed under this subdivision shall not be
6 allowed to any taxpayer for whom a depletion allowance is not
7 permitted to be computed under Section 613 of the Internal
8 Revenue Code by reason of paragraphs (2), (3), or (4) of subsection
9 (d) of Section 613A of the Internal Revenue Code.

10 (b) Section 43(d) of the Internal Revenue Code shall apply.

11 (c) In the case where the credit allowed by this section exceeds
12 the “tax,” the excess may be carried over to reduce the “tax” for
13 the succeeding 15 years.

14 (d) In the case where property which qualifies as part of the
15 taxpayer’s “qualified enhanced oil recovery costs” also qualifies
16 for a credit under any other section in this part, the taxpayer shall
17 make an election on its original return as to which section applies
18 to all costs allocable to that item of qualified property. Any election
19 made under this section, and any specification contained in that
20 election, may not be revoked except with the consent of the
21 Franchise Tax Board.

22 (e) No deduction shall be allowed as otherwise provided in this
23 part for that portion of any costs paid or incurred for the taxable
24 year which is equal to the amount of the credit allowed under this
25 section attributable to those costs.

26 (f) The basis of any property for which a credit is allowed under
27 this section shall be reduced by the amount of the credit attributable
28 to the property. The basis adjustment shall be made for the taxable
29 year for which the credit is allowed.

30 (g) No credit may be claimed under this section with respect to
31 any amount for which any other credit has been claimed under this
32 part.

33 (h) *This section shall remain in effect only until January 1, 2011,*
34 *and as of that date is repealed, unless a later enacted statute, that*
35 *is enacted before January 1, 2011, deletes or extends that date.*

36 SEC. 8. Section 23609 of the Revenue and Taxation Code is
37 amended to read:

38 23609. For each taxable year beginning on or after January 1,
39 1987, there shall be allowed as a credit against the “tax” (as defined

1 by Section 23036) an amount determined in accordance with
2 Section 41 of the Internal Revenue Code, except as follows:
3 (a) For each taxable year beginning before January 1, 1997,
4 both of the following modifications shall apply:
5 (1) The reference to “20 percent” in Section 41(a)(1) of the
6 Internal Revenue Code is modified to read “8 percent.”
7 (2) The reference to “20 percent” in Section 41(a)(2) of the
8 Internal Revenue Code is modified to read “12 percent.”
9 (b) (1) For each taxable year beginning on or after January 1,
10 1997, and before January 1, 1999, both of the following
11 modifications shall apply:
12 (A) The reference to “20 percent” in Section 41(a)(1) of the
13 Internal Revenue Code is modified to read “11 percent.”
14 (B) The reference to “20 percent” in Section 41(a)(2) of the
15 Internal Revenue Code is modified to read “24 percent.”
16 (2) For each taxable year beginning on or after January 1, 1999,
17 and before January 1, 2000, both of the following shall apply:
18 (A) The reference to “20 percent” in Section 41(a)(1) of the
19 Internal Revenue Code is modified to read “12 percent.”
20 (B) The reference to “20 percent” in Section 41(a)(2) of the
21 Internal Revenue Code is modified to read “24 percent.”
22 (3) For each taxable year beginning on or after January 1, 2000,
23 both of the following shall apply:
24 (A) The reference to “20 percent” in Section 41(a)(1) of the
25 Internal Revenue Code is modified to read “15 percent.”
26 (B) The reference to “20 percent” in Section 41(a)(2) of the
27 Internal Revenue Code is modified to read “24 percent.”
28 (c) (1) With respect to any expense paid or incurred after the
29 operative date of Section 6378, Section 41(b)(1) of the Internal
30 Revenue Code is modified to exclude from the definition of
31 “qualified research expense” any amount paid or incurred for
32 tangible personal property that is eligible for the exemption from
33 sales or use tax provided by Section 6378.
34 (2) “Qualified research” and “basic research” shall include only
35 research conducted in California.
36 (d) The provisions of Section 41(e)(7)(A) of the Internal
37 Revenue Code, shall be modified so that “basic research,” for
38 purposes of this section, includes any basic or applied research
39 including scientific inquiry or original investigation for the
40 advancement of scientific or engineering knowledge or the

1 improved effectiveness of commercial products, except that the
2 term does not include any of the following:

- 3 (1) Basic research conducted outside California.
- 4 (2) Basic research in the social sciences, arts, or humanities.
- 5 (3) Basic research for the purpose of improving a commercial
6 product if the improvements relate to style, taste, cosmetic, or
7 seasonal design factors.
- 8 (4) Any expenditure paid or incurred for the purpose of
9 ascertaining the existence, location, extent, or quality of any deposit
10 of ore or other mineral (including oil and gas).

11 (e) (1) In the case of a taxpayer engaged in any
12 biopharmaceutical research activities that are described in codes
13 2833 to 2836, inclusive, or any research activities that are described
14 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
15 Industrial Classification (SIC) Manual published by the United
16 States Office of Management and Budget, 1987 edition, or any
17 other biotechnology research and development activities, the
18 provisions of Section 41(e)(6) of the Internal Revenue Code shall
19 be modified to include both of the following:

20 (A) A qualified organization as described in Section
21 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
22 institution of higher education as described in Section 3304(f) of
23 the Internal Revenue Code.

24 (B) A charitable research hospital owned by an organization
25 that is described in Section 501(c)(3) of the Internal Revenue Code,
26 is exempt from taxation under Section 501(a) of the Internal
27 Revenue Code, is not a private foundation, is designated a
28 “specialized laboratory cancer center,” and has received Clinical
29 Cancer Research Center status from the National Cancer Institute.

30 (2) For purposes of this subdivision:

31 (A) “Biopharmaceutical research activities” means those
32 activities that use organisms or materials derived from organisms,
33 and their cellular, subcellular, or molecular components, in order
34 to provide pharmaceutical products for human or animal
35 therapeutics and diagnostics. Biopharmaceutical activities make
36 use of living organisms to make commercial products, as opposed
37 to pharmaceutical activities that make use of chemical compounds
38 to produce commercial products.

39 (B) “Other biotechnology research and development activities”
40 means research and development activities consisting of the

1 application of recombinant DNA technology to produce
2 commercial products, as well as research and development
3 activities regarding pharmaceutical delivery systems designed to
4 provide a measure of control over the rate, duration, and site of
5 pharmaceutical delivery.

6 (f) In the case where the credit allowed by this section exceeds
7 the “tax,” the excess may be carried over to reduce the “tax” in
8 the following year, and succeeding years if necessary, until the
9 credit has been exhausted.

10 (g) For each taxable year beginning on or after January 1, 1998,
11 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
12 Internal Revenue Code, relating to contract research expenses, is
13 modified to read “this part or Part 10 (commencing with Section
14 17001).”

15 (h) (1) For each taxable year beginning on or after January 1,
16 2000:

17 (A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i)
18 of the Internal Revenue Code is modified to read “one and
19 forty-nine hundredths of one percent.”

20 (B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of
21 the Internal Revenue Code is modified to read “one and
22 ninety-eight hundredths of one percent.”

23 (C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii)
24 of the Internal Revenue Code is modified to read “two and
25 forty-eight hundredths of one percent.”

26 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
27 election under Section 41(c)(4)(A) of the Internal Revenue Code
28 may be made for any taxable year of the taxpayer beginning on or
29 after January 1, 1998. That election shall apply to the taxable year
30 for which made and all succeeding taxable years unless revoked
31 with the consent of the Franchise Tax Board.

32 (3) Section 41(c)(6) of the Internal Revenue Code, relating to
33 gross receipts, is modified to take into account only those gross
34 receipts from the sale of property held primarily for sale to
35 customers in the ordinary course of the taxpayer’s trade or business
36 that is delivered or shipped to a purchaser within this state,
37 regardless of f.o.b. point or any other condition of the sale.

38 (i) Section 41(h) of the Internal Revenue Code, relating to
39 termination, shall not apply.

1 (j) 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 (1) The last sentence shall not apply.

5 (2) 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), 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 (k) ~~This~~ *For taxable years beginning on and after January 1,*
13 *2011, this section shall not apply to a taxpayer engaged in the*
14 *business of oil production.*

15 SEC. 9. Section 23659 is added to the Revenue and Taxation
16 Code, to read:

17 23659. (a) (1) For taxable years beginning on and after January
18 1, 2011, ~~and ending before January 1, 2016,~~ subject to the
19 ~~limitation in paragraph (2)~~ *limitations in paragraphs (2) and (3),*
20 there shall be allowed to a qualified taxpayer as a credit against
21 the “tax,” as defined in Section 23036, an amount equal to 50
22 percent of the qualified amount.

23 (2) ~~The credit allowed by paragraph (1) shall not exceed ten~~
24 ~~million dollars (\$10,000,000).~~

25 (2) *The credit allowed to a qualified taxpayer under this section*
26 *for any taxable year shall not exceed ten million dollars*
27 *(\$10,000,000).*

28 (3) *The aggregate amount of credits that may be allocated to*
29 *all qualified taxpayers in any taxable year pursuant to this section*
30 *and Section 17059 shall not exceed the sum of thirty million dollars*
31 *(\$30,000,000).*

32 (b) For purposes of this section:

33 (1) ~~“Clean energy technology” means an energy supply or~~
34 ~~end-use technology that, over its life cycle and compared to a~~
35 ~~similar technology already in commercial use in the United States,~~
36 ~~meets all of the following conditions:~~

37 (A) ~~Is reliable, affordable, economically viable, socially~~
38 ~~acceptable, and compatible with the needs and norms of California~~
39 ~~and the United States.~~

1 ~~(B) Results in reduced emissions of greenhouse gases, increased~~
2 ~~geological sequestration, or energy efficiency.~~

3 ~~(C) May substantially lower emissions of air pollutants and~~
4 ~~generate substantially smaller or less hazardous quantities of solid~~
5 ~~or liquid waste.~~

6 *(1) “Clean energy technology” means any renewable energy*
7 *technology or energy supply or end-use technology whose electrical*
8 *efficiency is at least 40 percent higher heating value as determined*
9 *by the Public Utilities Commission.*

10 *(2) “Qualified amount” means the total amount paid or incurred*
11 *by the qualified taxpayer for either of the following:*

12 ~~(A) Machinery—~~*New machinery, equipment, or devices, or any*
13 *addition to, reconstruction of, or improvement of, new machinery,*
14 *equipment, or devices that are acquired, constructed, or installed*
15 *in connection with the processing or manufacturing of clean energy*
16 *technology that are located and remain within California. that are*
17 *located and remain within California for a period of two years*
18 *from the date placed in service. For purposes of this subparagraph,*
19 *“new machinery, equipment, or devices” means any machinery,*
20 *equipment, or devices whose original use commences with use by*
21 *the qualified taxpayer.*

22 *(B) The Public Utilities Commission shall certify machinery,*
23 *equipment, or devices for which a credit is allowable under this*
24 *section.*

25 ~~(B)~~

26 *(C) Capital investments in a qualified facility.*

27 *(3) “Qualified facility” means a facility that meets both of the*
28 *following conditions:*

29 *(A) The qualified taxpayer has provided the California Energy*
30 *Commission with all the pertinent information needed to certify*
31 *the facility and remitted any certification fees to the California*
32 *Energy Commission.*

33 *(B) The California Energy Commission has certified the facility*
34 *as a facility where all of the processed or manufactured items are*
35 *clean energy technology, excluding any byproducts, like waste*
36 *heat, chemicals, or recyclable materials that may be sold.*

37 ~~(4) “Qualified taxpayer” means a taxpayer who is engaged in~~
38 ~~those lines of business described in Codes 3111 to 3399, inclusive,~~
39 ~~of the North American Industrial Classification System (NAICS)~~
40 ~~published by the United States Office of Management and Budget~~

1 ~~(OMB), 2007 edition, on or after January 1, 2009 who has been~~
2 ~~engaged in the processing or manufacture of clean energy~~
3 ~~technology products in this state for five years or less.~~

4 (4) *“Qualified taxpayer” means a taxpayer engaged in the*
5 *business of the processing or manufacture of clean energy*
6 *technology products for a period of not more than five years, as*
7 *certified by the Public Utilities Commission.*

8 (c) No credit shall be allowed pursuant to this section unless
9 the qualified taxpayer provides, upon the request of the Franchise
10 Tax Board, any additional information relating to the credit for
11 disclosure to the Legislative Analyst for the limited purpose of
12 evaluation of the impact and effectiveness of the credit.

13 (d) *If the property described in subparagraph (A) of paragraph*
14 *(2) of subdivision (b) is removed from California prior to the*
15 *expiration of the two-year period required by that subparagraph,*
16 *there shall be added to the “tax,” as defined by Section 23036,*
17 *for the taxable year in which the property is removed, an amount*
18 *equal to 50 percent of the credit allowed.*

19 ~~(d)~~

20 (e) The Franchise Tax Board shall promulgate rules and
21 regulations necessary to establish procedures, processes,
22 requirements, and rules required to implement this section.

23 ~~(e)~~

24 (f) In the case where the credit allowed exceeds the “tax,” the
25 excess may be carried over to reduce the “tax” in the following
26 year, and *the* succeeding *seven* years if necessary, until the credit
27 has been exhausted.

28 ~~(f) This section shall remain in effect only until January 1, 2017,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2017, deletes or extends that date.~~

31 ~~SEC. 10. Section 24423 of the Revenue and Taxation Code is~~
32 ~~amended to read:~~

33 ~~24423. The provisions of Section 263 of the Internal Revenue~~
34 ~~Code, relating to capital expenditures, shall apply to taxpayers~~
35 ~~engaged in the business of oil production.~~

36 ~~SEC. 10. Section 24423 of the Revenue and Taxation Code is~~
37 ~~amended to read:~~

38 24423. (a) Notwithstanding Section 24422, regulations shall
39 be prescribed by the Franchise Tax Board under this part
40 corresponding to the regulations which granted the option to deduct

1 as expenses intangible drilling and development costs in the case
2 of oil and gas wells and which were recognized and approved by
3 the Congress in House Concurrent Resolution 50, Seventy-ninth
4 Congress.

5 (b) The provisions of Section 263(i) of the Internal Revenue
6 Code, relating to special rules for intangible drilling and
7 development costs incurred outside the United States, shall apply
8 to costs paid or incurred after December 31, 1986.

9 (c) *This section shall not apply to costs paid or incurred for*
10 *taxable years beginning on and after January 1, 2011, by a*
11 *taxpayer engaged in the business of oil production.*

12 SEC. 11. Section 24831 of the Revenue and Taxation Code is
13 amended to read:

14 24831. (a) Subchapter I of Chapter 1 of Subtitle A of the
15 Internal Revenue Code, relating to natural resources, shall apply,
16 except as otherwise provided.

17 (b) *For taxable years beginning on and after January 1, 2011,*
18 *Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue*
19 *Code shall not apply to taxpayers engaged in the business of oil*
20 *production.*

21 ~~SEC. 12. Section 24831.6 of the Revenue and Taxation Code~~
22 ~~is repealed.~~

23 *SEC. 12. Section 24831.6 of the Revenue and Taxation Code*
24 *is amended to read:*

25 24831.6. *For taxable years beginning on and after January 1,*
26 *2011, Section 613A(c)(6)(H) of the Internal Revenue Code, relating*
27 *to temporary suspension of taxable income limit with respect to*
28 *marginal production, shall not apply.*

29 SEC. 13. The Legislature declares that the decrease in state
30 tax revenues under this act is intended to be equal to the increase
31 in state tax revenues under this act.

32 SEC. 14. This act provides for a tax levy within the meaning
33 of Article IV of the Constitution and shall go into immediate effect.

34

35 _____

36 CORRECTIONS:

37 Text—Pages 6 and 14.

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