

AMENDED IN SENATE JUNE 3, 1997

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 10, 1997

SENATE BILL

No. 1106

**Introduced by Committee on Revenue and Taxation
(Senators Alpert (Chair), Greene, Karnette, Knight, Kopp,
and McPherson)**

February 28, 1997

An act to amend Section 30 of the Business and Professions Code, to amend Section 1666.5 of the Insurance Code, to amend Sections 17052.15, 17053.45, 17053.46, 17053.49, 17062, 17220, 17276.2, 17502, 17570, 17935, 18402, 18604, 18606, 18621.5, 18633, 18633.5, 18637, 18638, 18645, 18662, 18670, 19009, 19011, 19021, 19023, 19024, 19058, 19132.5, 19141.5, 19141.6, 19147, 19164, 19192, 19254, 19263, 19280, 19282, 19301, 19340, 19392, 19411, 19542, 19563, 19701, 19705, 19706, 19719, 23037, 23038, 23040.1, 23095, 23098, 23151, 23151.1, 23151.2, 23153, 23183.1, 23183.2, 23186, 23221, 23303, 23305.2, 23332, 23332.5, 23334, 23455, 23501, 23610.5, 23612.6, 23623.5, 23625, 23645, 23646, 23649, 23731, 23802, 23809, 23811, 24346, 24356.4, 24356.8, 24357, 24358, 24359, 24402, 24407, 24408, 24409, 24411, 24416, 24416.2, 24602, 24677, 24678, 24710, 24901, 24912, 24916, 24917, 24918, 24942, 25105, 25110, 25111, 25112, and 25128 of, to amend and renumber Section 19532 of, to amend and renumber the heading of Article 6 (commencing with Section 19280) of Chapter 5 of Part 10.2 of Division 2 of, to add Sections 17936, 23114, and 24954 to, and to repeal Sections 23184, 23184.5, 23185, 23185a, 23185b, 23186.1, 23186.2, 23186.5, and 24903 of,

the Revenue and Taxation Code, to amend Section 1088.5 of the Unemployment Insurance Code, and to amend Section 56 of Chapter 952 of the Statutes of 1996, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, as amended, Committee on Revenue and Taxation. Taxation.

(1) Existing law requires any board, as defined under the Business and Professions Code, including the State Bar and the Department of Real Estate, and the Insurance Commissioner to require that any licensee at the time of issuance or renewal of a license provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others. Existing law also provides that any licensee failing to provide this information shall be reported by the licensing entity to the Franchise Tax Board, as specified, and shall be subject to a penalty if the licensee fails to provide the required information after notification by the Franchise Tax Board.

This bill would make technical clarifying changes in those provisions.

(2) The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws, including credits for the amount of sales or use tax paid or incurred in connection with the purchase of qualified property in the Los Angeles Revitalization Zone, for the amount of sales or use tax paid or incurred in connection with the purchase of qualified property for exclusive use in a local agency military base recovery area, and for certain wages paid to specified employees employed in a local agency military base recovery area. Existing law requires a taxpayer whose expenses may qualify for more than one credit to elect which credit to claim among all the credits allowed under those laws.

This bill would instead provide that only one applicable credit is allowed with respect to the amount of the expenditure claimed.

(3) The Personal Income Tax Law and the Bank and Corporation Tax Law allow to qualified taxpayers, as defined, a credit against taxes imposed by those laws in an amount equal to 6% of the amount paid or incurred during the taxable or income year for qualified property, as defined, that is placed in service in this state. These provisions refer to the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended.

This bill would delete the reference to the amended version of that manual and would also make a technical change in those provisions.

(4) The Personal Income Tax Law and the Bank and Corporation Tax Law provide for the levy of an alternative minimum tax in partial conformity with federal law, subject to certain modifications that include a tentative minimum tax.

This bill would clarify the definition of “qualified taxpayer” by defining “aggregate gross receipts, less returns and allowances,” “gross receipts, less returns and allowances,” and “proportionate interest.”

(5) The Personal Income Tax Law and the Bank and Corporation Tax Law allow a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone or the Los Angeles Revitalization Zone, including a deduction for net operating losses. Existing law provides that any net operating loss may be used only to reduce income attributable to the zone business activities. Existing law allows any net operating loss to be carried forward after the zone designation expires.

This bill would additionally provide that a taxpayer may use any net operating loss carryover against the income that a taxpayer derived from a business conducted in an expired zone as if the zone remained in existence.

(6) The Personal Income Tax Law and the Bank and Corporation Tax Law, in conformity with federal income tax laws, provide for the postponement of gain from the exercise of specified types of stock options until the sale of the stock.

Both laws also establish a California qualified stock option that allows the specified postponement of taxes upon the exercise of any other type of stock option, if the stock option

is limited to a specified number of shares and value, and is exercised by individuals who are employees with earned income below a specified amount and who meet other specified conditions.

This bill would modify the characteristics of a California qualified stock option and would authorize a corporation to designate that the stock option that is otherwise a California qualified stock option is to be treated as such at the time the option is granted, as provided. This bill would make related technical and conforming changes to specified provisions of the alternative minimum tax.

(7) The Personal Income Tax Law provides that no deduction shall be allowed for any tax imposed under the Bank and Corporation Tax Law.

This bill would make a technical nonsubstantive change to those provisions by deleting a confusing and unnecessary reference.

(8) The Personal Income Tax Law and the Bank and Corporation Tax Law provide specified conformity to federal income tax laws relating to the mark to market accounting method for securities dealers for taxable or income years beginning on or after January 1, 1998.

This bill would revise those provisions to conform for taxable or income years beginning on or after January 1, 1997.

(9) The Bank and Corporation Tax Law allows an exemption from taxation for a limited liability company or a limited liability partnership that is commencing or dissolving operations if the entity did no business in California during the taxable or income year and the taxable or income year was 15 days or less.

This bill would provide similar relief for corporations and limited partnerships.

(10) Existing law governing the administration of franchise and income taxes and the Bank and Corporation Tax Law contain various tax and tax administration provisions that are specifically applicable to both banks and corporations, various provisions that are specifically applicable either to banks or to corporations generally, but not both, and various provisions which are specifically applicable to corporations, but are administratively applied also to banks.



This bill would modify the definition of “corporation” to include banks, unless specifically provided otherwise, would provide specific language to exempt banks from certain existing provisions of the above tax and tax administration laws where intentional differences between the treatment of banks and corporations are clear, and would replace the phrase “bank or corporation” with the term “corporation” throughout the remaining provisions of those laws.

This bill would provide that the various changes made by the bill would be applicable from the original date of enactment of the affected statutory provisions, with certain exceptions.

(11) The Personal Income Tax Law, among other things, requires partnerships and limited liability companies to make returns that include specified information.

This bill would require the Franchise Tax Board to prescribe the manner and extent to which the specified information shall be included in the returns, as provided.

(12) Existing law permits the Franchise Tax Board to obtain a copy of the federal information return of any person if a return was required in specified circumstances.

This bill would additionally permit the Franchise Tax Board to obtain a copy of the federal information return of any person if a return was required to be filed regarding the cancellation of indebtedness by certain financial entities.

(13) The Bank and Corporation Tax Law imposes a franchise tax on banks and financial corporations that is in-lieu of all other state, county, and municipal taxes and licenses, except as specified. The in-lieu tax is imposed on banks because national banks are exempt from most local taxes. The “in-lieu” tax was extended to financial corporations for income years beginning on or after January 1, 1981. Existing law, for income years beginning on or after January 1, 1981, allows financial corporations to offset specified local taxes against the franchise tax and provides that the intent of those provisions is to minimize the difference between banks and financial corporations. Existing law provides that final action on the allowance of an offset under those provisions is deferred until a final court determination of whether charter cities may impose local taxes on financial corporations.



This bill would repeal those offset provisions as obsolete on the basis that financial corporations are exempt from local taxation to the same degree as banks. The bill would also make related and conforming changes.

(14) Existing law pertaining to the administration of franchise and income taxes requires all apportioning taxpayers to maintain specified information.

This bill would make a technical, nonsubstantive change to those provisions by deleting an obsolete reference.

(15) Existing law permits, until 1999, the referral of fines, state or local penalties, forfeitures, restitution fines, or restitution orders imposed by specified courts upon a person for criminal offenses under certain conditions to the Franchise Tax Board for collection under guidelines prescribed by that board. Amounts collected are deposited in the Court Collection Account in the General Fund which is continuously appropriated for the purpose of distribution to the county or the state fund to which the amount was originally due.

This bill would extend that authority to other amounts imposed by those courts upon a person for criminal offenses. By providing for the collection of these other amounts which would be continuously appropriated, this bill would make an appropriation.

This bill would also require that restitution orders may be referred to the Franchise Tax Board by a government entity that meets specified additional criteria. The bill would also provide that amounts collected pursuant to a restitution fine or restitution order be deposited and disbursed in accordance with the laws relating to reimbursement of the State Restitution Fund.

This bill would make other related technical and conforming changes to those provisions.

(16) Existing laws relating to the administration of personal income and bank and corporation taxes provide for the allowance and payment of interest on any overpayment in respect of any tax, as specified, and require that any credit first be credited on any taxes due from the taxpayer under the Personal Income Tax Law or the Bank and Corporation Tax Law.



This bill would instead require that any credit first be credited on any amounts due from the taxpayer under those laws or the laws relating to the administration of those laws.

(17) The Bank and Corporation Tax Law provides that a corporation that incorporates under the laws of this state or qualifies to transact interstate business in this state shall prepay a specified minimum franchise tax of \$800, except for a qualified new corporation, as defined. Existing law defines a “qualified new corporation” as a corporation that reasonably estimates that, for the income year, it will have both gross receipts, less returns and allowances reportable to the state, of less than \$1,000,000 and a tax liability that does not exceed \$800. This exception does not apply to a corporation if 50% or more of its stock is owned by another corporation.

This bill would clarify that definition to instead refer to gross receipts, less returns and allowances reportable to the state, of \$1,000,000 or less. This bill would instead provide that the exception does not apply to a corporation if 50% or more of its stock is, or will be upon the initial issuance of stock, owned by another corporation.

(18) The Personal Income Tax Law, by reference to a specified federal statute, conforms to federal income tax laws relating to sales of stock to employee stock ownership plans or certain cooperatives.

This bill would, under the Bank and Corporation Tax Law, provide the same conformity to federal income tax laws relating to sales of stock to employee stock ownership plans or certain cooperative.

(19) This bill would make technical changes in various provisions of the Personal Income Tax and Bank and Corporation Tax Law regarding discharge of indebtedness and other provisions of law regarding disclosure of employee registry information to the Franchise Tax Board.

(20) Existing law defines the term “taxable year” for purposes of the Personal Income Tax Law, and also defines the term “income year” for purposes of the Bank and Corporation Tax Law. Existing law also specifies that the provisions of Chapter 952 of the Statutes of 1996, which contains various provisions in both the Personal Income Tax Law and the Bank

and Corporation Tax Law, shall be applied to taxable years beginning on or after January 1, 1997.

This bill would instead specify that the provisions of Chapter 952 of the Statutes of 1996 shall be applied to both taxable and income years beginning on or after January 1, 1997.

(21) This bill would take effect immediately as a tax levy, but would be applicable to income years beginning on or after January 1, 1998, with respect to certain provisions, and certain other provisions would become operative on January 1, 1998.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 30 of the Business and
2 Professions Code is amended to read:

3 30. (a) Notwithstanding any other provision of law,
4 any board, as defined in Section 22, and the State Bar and
5 the Department of Real Estate shall at the time of
6 issuance or renewal of the license require that any
7 licensee provide its federal employer identification
8 number if the licensee is a partnership or his or her social
9 security number for all others.

10 (b) Any licensee failing to provide the federal
11 identification number or social security number shall be
12 reported by the licensing board to the Franchise Tax
13 Board and, if failing to provide after notification pursuant
14 to paragraph (1) of subdivision (b) of Section 19528 of the
15 Revenue and Taxation Code, shall be subject to the
16 penalty provided in paragraph (2) of subdivision (b) of
17 Section 19528 of the Revenue and Taxation Code.

18 (c) In addition to the penalty specified in subdivision
19 (b), a licensing board may not process any application for
20 an original license or for renewal of a license unless the
21 applicant or licensee provides its federal employer
22 identification number or social security number where
23 requested on the application.



(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the entity is a partnership or social security number for all others.

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(e) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

1 (i) Any deputy, agent, clerk, officer, or employee of
2 any licensing board described in subdivision (a), or any
3 former officer or employee or other individual who in the
4 course of his or her employment or duty has or has had
5 access to the information required to be furnished under
6 this section, may not disclose or make known in any
7 manner that information, except as provided in this
8 section to the Franchise Tax Board or as provided in
9 subdivision (k).

10 (j) It is the intent of the Legislature in enacting this
11 section to utilize the social security account number or
12 federal employer identification number for the purpose
13 of establishing the identification of persons affected by
14 state tax laws and for purposes of compliance with Section
15 11350.6 of the Welfare and Institutions Code and, to that
16 end, the information furnished pursuant to this section
17 shall be used exclusively for those purposes.

18 (k) If the board utilizes a national examination to issue
19 a license, and if a reciprocity agreement or comity exists
20 between the State of California and the state requesting
21 release of the social security number, any deputy, agent,
22 clerk, officer, or employee of any licensing board
23 described in subdivision (a) may release a social security
24 number to an examination or licensing entity, only for the
25 purpose of verification of licensure or examination status.

26 SEC. 2. Section 1666.5 of the Insurance Code is
27 amended to read:

28 1666.5. (a) Notwithstanding any other provision of
29 law, the commissioner shall at the time of issuance or
30 renewal of any license under this chapter or Chapter 6
31 (commencing with Section 1760), Chapter 7
32 (commencing with Section 1800), or Chapter 8
33 (commencing with Section 1831) require that any
34 licensee provide its federal employer identification
35 number if the licensee is a partnership or his or her social
36 security number for all others.

37 (b) Any licensee failing to provide the federal
38 identification number or social security number shall be
39 reported by the commissioner to the Franchise Tax Board
40 and, if failing to provide after notification pursuant to

1 paragraph (1) of subdivision (b) of Section 19528 of the
2 Revenue and Taxation Code, shall be subject to the
3 penalty provided in paragraph (2) of subdivision (b) of
4 Section 19528 of the Revenue and Taxation Code.

5 (c) The commissioner shall, upon request of the
6 Franchise Tax Board, furnish to the board all of the
7 following information with respect to every licensee:

8 (1) Licensee's name.

9 (2) Address or addresses of record.

10 (3) Federal employer identification number if the
11 entity is a partnership or owner's name and social security
12 number for all others.

13 (4) Type of license.

14 (5) Effective date of license or renewal.

15 (6) Expiration date of license.

16 (7) Whether license is active or inactive, if known.

17 (8) Whether license is new or renewal.

18 (d) For the purposes of this section:

19 (1) "Licensee" means any entity, other than a
20 corporation, authorized by a license, certificate,
21 registration, or other means to engage in the insurance
22 business regulated by this code.

23 (2) "License" includes a certificate, registration, or
24 any other authorization needed to engage in the
25 insurance business regulated by this code.

26 (e) The reports required under this section shall be
27 filed on magnetic media or in other machine-readable
28 form, according to standards furnished by the Franchise
29 Tax Board.

30 (f) The commissioner shall begin providing to the
31 Franchise Tax Board the information required by this
32 section as soon as economically feasible, but no later than
33 July 1, 1987. The information shall be furnished at a time
34 that the Franchise Tax Board may require.

35 (g) Notwithstanding Chapter 3.5 (commencing with
36 Section 6250) of Division 7 of Title 1 of the Government
37 Code, the information furnished pursuant to this section
38 shall not be deemed to be a public record and shall not be
39 open to the public for inspection.

1 (h) Any deputy, agent, clerk, officer, or employee of
2 the commissioner, or any former officer or employee or
3 other individual who in the course of his or her
4 employment or duty has or has had access to the
5 information required to be furnished under this section,
6 shall not disclose or make known in any manner that
7 information, except as provided in this section to the
8 Franchise Tax Board.

9 (i) It is the intent of the Legislature in enacting this
10 section to utilize the social security account number or
11 federal employer identification number for the purpose
12 of establishing the identification of persons affected by
13 state tax laws and, to that end, the information furnished
14 pursuant to this section shall be used exclusively for tax
15 enforcement purposes.

16 SEC. 3. Section 17052.15 of the Revenue and Taxation
17 Code is amended to read:

18 17052.15. (a) For each taxable year beginning on or
19 after January 1, 1992, and before January 1, 1998, there
20 shall be allowed a credit against the “net tax,” as defined
21 in Section 17039, an amount equal to the sales or use tax
22 paid or incurred during the taxable year by the taxpayer
23 in connection with the taxpayer’s purchase of qualified
24 property.

25 (b) For purposes of this section:

26 (1) “Taxpayer” means a person or entity engaged in a
27 trade or business within the Los Angeles Revitalization
28 Zone designated pursuant to Section 7102 of the
29 Government Code.

30 (2) “Qualified property” means the purchase on or
31 after May 1, 1992, and before the zone expiration date, of
32 either or both of the following:

33 (A) Building materials to replace or repair the
34 taxpayer’s building and fixtures.

35 (B) Machinery or equipment, excluding inventory, to
36 be used by the taxpayer exclusively in the Los Angeles
37 Revitalization Zone.

38 (3) “Zone expiration date” means the date the Los
39 Angeles Revitalization Zone designation expires, is

1 repealed, or becomes inoperative pursuant to Section
2 7102, 7103, or 7104 of the Government Code.

3 (c) If the taxpayer is allowed a credit for qualified
4 property pursuant to this section, only one credit shall be
5 allowed to the taxpayer under this part with respect to
6 that qualified property.

7 (d) In the case where the credit otherwise allowed
8 under this section exceeds the net tax for the taxable year,
9 that portion of the credit that exceeds the net tax may be
10 carried over and added to the credit, if any, in succeeding
11 taxable years for the number of taxable years in which the
12 designation of the Los Angeles Revitalization Zone under
13 Section 7102 of the Government Code is operative, or 15
14 taxable years, if longer, until the credit is exhausted. The
15 credit shall be applied first to the earliest taxable years
16 possible.

17 (e) Any taxpayer who elects to be subject to this
18 section shall not be entitled to increase the basis of the
19 property as otherwise required by Section 164(a) of the
20 Internal Revenue Code with respect to the sales and use
21 tax paid or incurred in connection with the taxpayer's
22 purchase of qualified property.

23 (f) (1) The amount of credit otherwise allowed under
24 this section and Sections 17053.10 and 17053.17, including
25 any credit carryover from prior years, that may reduce
26 the net tax for the taxable year shall not exceed the
27 amount of tax that would be imposed on the taxpayer's
28 business income attributable to the Los Angeles
29 Revitalization Zone (designated pursuant to Section 7102
30 of the Government Code) determined as if that
31 attributable income represented all of the income of the
32 taxpayer subject to tax under this part.

33 (2) The amount of attributable income described in
34 paragraph (1) shall be that portion of the taxpayer's
35 California source business income which is apportioned
36 to the Los Angeles Revitalization Zone. For that purpose,
37 the taxpayer's business income attributable to sources in
38 this state first shall be determined in accordance with the
39 provisions of Chapter 17 (commencing with Section
40 25101) of Part 11. That business income shall be further

1 apportioned to the Los Angeles Revitalization Zone in
2 accordance with the provisions of Article 2 (commencing
3 with Section 25120) of Chapter 17 of Part 11, modified as
4 follows:

5 (A) Business income shall be apportioned to the Los
6 Angeles Revitalization Zone by multiplying total
7 California business income of the taxpayer by a fraction,
8 the numerator of which is the property factor plus the
9 payroll factor, and the denominator of which is two.

10 (B) The property factor is a fraction, the numerator of
11 which is the average value of the taxpayer's real and
12 tangible personal property owned or rented and used in
13 the Los Angeles Revitalization Zone during the taxable
14 year and the denominator of which is the average value
15 of all the taxpayer's real and tangible personal property
16 owned or rented and used in this state during the taxable
17 year.

18 (C) The payroll factor is a fraction, the numerator of
19 which is the total amount paid by the taxpayer in the Los
20 Angeles Revitalization Zone during the taxable year for
21 compensation, and the denominator of which is the total
22 compensation paid by the taxpayer in this state during the
23 taxable year.

24 (3) The portion of the credit remaining, if any, after
25 application of this subdivision, shall be carried over to
26 succeeding taxable years, as if it were an amount
27 exceeding the net tax for the taxable year, as provided in
28 subdivision (d).

29 (g) If the qualified property is disposed of or no longer
30 used by the taxpayer in the Los Angeles Revitalization
31 Zone, at any time before the close of the second taxable
32 year after the property is placed in service, the amount
33 of the credit previously claimed shall be added to the
34 taxpayer's tax liability in the taxable year of that
35 disposition or nonuse.

36 (h) This section shall be inoperative on the first day of
37 the taxable year beginning on or after the determination
38 date, and each taxable year thereafter, with respect to the
39 taxpayer's business activities within a geographic area
40 that is excluded from the map pursuant to Section 7102 of

1 the Government Code, or an excluded area determined
 2 pursuant to Section 7104 of the Government Code. The
 3 determination date is the earlier of the first effective date
 4 of a determination under subdivision (c) of Section 7102
 5 of the Government Code occurring after December 1,
 6 1994, or the first effective date of an exclusion of an area
 7 from the amended Los Angeles Revitalization Zone
 8 under Section 7104 of the Government Code. However,
 9 if the taxpayer has any unused credit amount as of the
 10 date this section becomes inoperative, that unused credit
 11 amount may continue to be carried forward as provided
 12 in subdivision (d).

13 (i) This section shall remain in effect only until
 14 December 1, 1998, and as of that date is repealed.
 15 However, any unused credit may continue to be carried
 16 forward, as provided in subdivision (d).

17 SEC. 4. Section 17053.45 of the Revenue and Taxation
 18 Code is amended to read:

19 17053.45. (a) For each taxable year beginning on or
 20 after January 1, 1995, and before January 1, 2003, there
 21 shall be allowed as a credit against the “net tax” (as
 22 defined by Section 17039) an amount equal to the sales or
 23 use tax paid or incurred by the taxpayer in connection
 24 with the purchase of qualified property to the extent that
 25 the qualified property does not exceed a value of one
 26 million dollars (\$1,000,000).

27 (b) For purposes of this section:

28 (1) “LAMBRA” means a local agency military base
 29 recovery area designated in accordance with Section 7114
 30 of the Government Code.

31 (2) “Taxpayer” means a taxpayer or partnership that
 32 conducts a trade or business within a LAMBRA and, for
 33 the first two taxable years, has a net increase in jobs
 34 (defined as 2,000 paid hours per employee per year) of
 35 one or more employees in the LAMBRA.

36 (A) The net increase in the number of jobs shall be
 37 determined by subtracting the total number of full-time
 38 employees (defined as 2,000 paid hours per employee per
 39 year) the taxpayer employed in this state in the taxable
 40 year prior to commencing business operations in the

1 LAMBRA from the total number of full-time employees
2 the taxpayer employed in this state during the second
3 taxable year after commencing business operations in the
4 LAMBRA. For taxpayers who commence doing business
5 in this state with their LAMBRA business operation, the
6 number of employees for the taxable year prior to
7 commencing business operations in the LAMBRA shall
8 be zero. If the taxpayer has a net increase in jobs in the
9 state, the credit shall be allowed only if one or more
10 full-time employees is employed within the LAMBRA.

11 (B) The total number of employees employed in the
12 LAMBRA shall equal the sum of both of the following:

13 (i) The total number of hours worked in the LAMBRA
14 for the taxpayer by employees (not to exceed 2,000 hours
15 per employee) who are paid an hourly wage divided by
16 2,000.

17 (ii) The total number of months worked in the
18 LAMBRA for the taxpayer by employees who are salaried
19 employees divided by 12.

20 (C) In the case of a taxpayer who first commences
21 doing business in the LAMBRA during the taxable year,
22 for purposes of clauses (i) and (ii), respectively, of
23 subparagraph (B) the divisors “2,000” and “12” shall be
24 multiplied by a fraction, the numerator of which is the
25 number of months of the taxable year that the taxpayer
26 was doing business in the LAMBRA and the denominator
27 of which is 12.

28 (3) “Qualified property” means the purchase of any of
29 the following for exclusive use in a LAMBRA:

30 (A) High technology equipment, including, but not
31 limited to, computers and electronic processing
32 equipment.

33 (B) Aircraft maintenance equipment, including, but
34 not limited to, engine stands, hydraulic mules, power
35 carts, test equipment, handtools, aircraft start carts, and
36 tugs.

37 (C) Aircraft components, including, but not limited
38 to, engines, fuel control units, hydraulic pumps, avionics,
39 starts, wheels, and tires.



(D) Any property that is Section 1245 property, as defined in Section 1245(a)(3) of the Internal Revenue Code.

(c) The credit provided under subdivision (a) shall be allowed only for qualified property manufactured in California unless qualified property of a comparable quality and price is not available for timely purchase and delivery from a California manufacturer.

(d) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit which exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 17053.46, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributable income represented all the income of the taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Income shall be apportioned to a LAMBRA by multiplying total business income by a fraction, the numerator of which is the property factor, plus the payroll factor, and the denominator of which is two.

(B) “The LAMBRA” shall be substituted for “this state.”

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (d).

(g) (1) If the qualified property is disposed of or no longer used by the taxpayer in the LAMBRA, at any time before the close of the second taxable year after the property is placed in service, the amount of the credit previously claimed, with respect to that property, shall be added to the taxpayer’s tax liability in the taxable year of that disposition or nonuse.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer’s net tax for the taxpayer’s second taxable year.

(h) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(i) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried forward as provided in subdivision (d), until the credit is exhausted.

SEC. 5. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2003, there shall be allowed as a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

1 (2) Forty percent of the qualified wages in the second
2 year of employment.

3 (3) Thirty percent of the qualified wages in the third
4 year of employment.

5 (4) Twenty percent of the qualified wages in the
6 fourth year of employment.

7 (5) Ten percent of the qualified wages in the fifth year
8 of employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) That portion of wages paid or incurred by the
12 employer during the taxable year to qualified
13 disadvantaged individuals or qualified displaced
14 employees that does not exceed 150 percent of the
15 minimum wage.

16 (B) The total amount of qualified wages which may be
17 taken into account for purposes of claiming the credit
18 allowed under this section shall not exceed two million
19 dollars (\$2,000,000) per taxable year.

20 (C) Wages received during the 60-month period
21 beginning with the day the individual commences
22 employment with the taxpayer.

23 (2) “Minimum wage” means the wage established by
24 the Industrial Welfare Commission as provided for in
25 Chapter 1 (commencing with Section 1171) of Part 4 of
26 Division 2 of the Labor Code.

27 (3) “LAMBRA” means a local agency military base
28 recovery area designated in accordance with Section 7114
29 of the Government Code.

30 (4) “Qualified disadvantaged individual” means an
31 individual who satisfies all of the following requirements:

32 (A) (i) At least 90 percent of whose services for the
33 taxpayer during the taxable year are directly related to
34 the conduct of the taxpayer’s trade or business located in
35 a LAMBRA.

36 (ii) Who performs at least 50 percent of his or her
37 services for the taxpayer during the taxable year in the
38 LAMBRA.

1 (B) Who is hired by the employer after the
2 designation of the area as a LAMBRA in which the
3 individual's services were primarily performed.

4 (C) Who is any of the following immediately
5 preceding the individual's commencement of
6 employment with the taxpayer:

7 (i) An individual who has been determined eligible for
8 services under the federal Job Training Partnership Act
9 (29 U.S.C. Sec. 1501 et seq.).

10 (ii) Any voluntary or mandatory registrant under the
11 Greater Avenues for Independence Act of 1985 as
12 provided pursuant to Article 3.2 (commencing with
13 Section 11320) of Chapter 2 of Part 3 of Division 9 of the
14 Welfare and Institutions Code.

15 (iii) Any individual who has been certified eligible by
16 the Employment Development Department under the
17 federal Targeted Jobs Tax Credit Program whether or not
18 this program is in effect.

19 (5) "Qualified taxpayer" means a taxpayer or
20 partnership that conducts a trade or business within a
21 LAMBRA and, for the first two taxable years, has a net
22 increase in jobs (defined as 2,000 paid hours per employee
23 per year) of one or more employees in the LAMBRA.

24 (A) The net increase in the number of jobs shall be
25 determined by subtracting the total number of full-time
26 employees (defined as 2,000 paid hours per employee per
27 year) the taxpayer employed in this state in the taxable
28 year prior to commencing business operations in the
29 LAMBRA from the total number of full-time employees
30 the taxpayer employed in this state during the second
31 taxable year after commencing business operations in the
32 LAMBRA. For taxpayers who commence doing business
33 in this state with their LAMBRA business operation, the
34 number of employees for the taxable year prior to
35 commencing business operations in the LAMBRA shall
36 be zero. If the taxpayer has a net increase in jobs in the
37 state, the credit shall be allowed only if one or more
38 full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the
40 LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) “Qualified displaced employee” means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(c) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

1 The regulations prescribed under this paragraph shall
2 be based on principles similar to the principles that apply
3 in the case of controlled groups of corporations as
4 specified in subdivision (e) of Section 23622.

5 (2) If an employer acquires the major portion of a
6 trade or business of another employer (hereinafter in this
7 paragraph referred to as the “predecessor”) or the major
8 portion of a separate unit of a trade or business of a
9 predecessor, then, for purposes of applying this section
10 (other than subdivision (d)) for any calendar year ending
11 after that acquisition, the employment relationship
12 between an employee and an employer shall not be
13 treated as terminated if the employee continues to be
14 employed in that trade or business.

15 (d) (1) If the employment of any employee, with
16 respect to whom qualified wages are taken into account
17 under subdivision (a) is terminated by the taxpayer at
18 any time during the first 270 days of that employment
19 (whether or not consecutive) or before the close of the
20 270th calendar day after the day in which that employee
21 completes 90 days of employment with the taxpayer, the
22 tax imposed by this part for the taxable year in which that
23 employment is terminated shall be increased by an
24 amount (determined under those regulations) equal to
25 the credit allowed under subdivision (a) for that taxable
26 year and all prior taxable years attributable to qualified
27 wages paid or incurred with respect to that employee.

28 (2) (A) Paragraph (1) shall not apply to any of the
29 following:

30 (i) A termination of employment of an employee who
31 voluntarily leaves the employment of the taxpayer.

32 (ii) A termination of employment of an individual
33 who, before the close of the period referred to in
34 paragraph (1), becomes disabled to perform the services
35 of that employment, unless that disability is removed
36 before the close of that period and the taxpayer fails to
37 offer reemployment to that individual.

38 (iii) A termination of employment of an individual, if
39 it is determined under the applicable employment

1 compensation laws that the termination was due to the
2 misconduct of that individual.

3 (iv) A termination of employment of an individual due
4 to a substantial reduction in the trade or business
5 operations of the taxpayer.

6 (v) A termination of employment of an individual, if
7 that individual is replaced by other qualified employees
8 so as to create a net increase in both the number of
9 employees and the hours of employment.

10 (B) For purposes of paragraph (1), the employment
11 relationship between the taxpayer and an employee shall
12 not be treated as terminated by reason of a mere change
13 in the form of conducting the trade or business of the
14 taxpayer, if the employee continues to be employed in
15 that trade or business and the taxpayer retains a
16 substantial interest in that trade or business.

17 (3) Any increase in tax under paragraph (1) shall not
18 be treated as tax imposed by this part for purposes of
19 determining the amount of any credit allowable under
20 this part.

21 (4) At the close of the second taxable year, if the
22 taxpayer has not increased the number of its employees
23 as determined by paragraph (5) of subdivision (b), then
24 the amount of the credit previously claimed shall be
25 added to the taxpayer's net tax for the taxpayer's second
26 taxable year.

27 (e) In the case of an estate or trust, both of the
28 following apply:

29 (1) The qualified wages for any taxable year shall be
30 apportioned between the estate or trust and the
31 beneficiaries on the basis of the income of the estate or
32 trust allocable to each.

33 (2) Any beneficiary to whom any qualified wages have
34 been apportioned under paragraph (1) shall be treated
35 (for purposes of this part) as the employer with respect
36 to those wages.

37 (f) The credit shall be reduced by the credit allowed
38 under Section 17053.7. The credit shall also be reduced by
39 the federal credit allowed under Section 51 of the Internal
40 Revenue Code.

1 In addition, any deduction otherwise allowed under
2 this part for the wages or salaries paid or incurred by the
3 taxpayer upon which the credit is based shall be reduced
4 by the amount of the credit, prior to any reduction
5 required by subdivision (g) or (h).

6 (g) In the case where the credit otherwise allowed
7 under this section exceeds the “net tax” for the taxable
8 year, that portion of the credit that exceeds the “net tax”
9 may be carried over and added to the credit, if any, in
10 succeeding years, until the credit is exhausted. The credit
11 shall be applied first to the earliest taxable years possible.

12 (h) (1) The amount of credit otherwise allowed
13 under this section and Section 17053.45, including prior
14 year credit carryovers, that may reduce the “net tax” for
15 the taxable year shall not exceed the amount of tax that
16 would be imposed on the taxpayer’s business income
17 attributed to a LAMBRA determined as if that attributed
18 income represented all of the net income of the taxpayer
19 subject to tax under this part.

20 (2) The amount of attributed income described in
21 paragraph (1) shall be determined in accordance with
22 the provisions of Chapter 17 (commencing with Section
23 25101) of Part 11, modified for purposes of this section as
24 follows:

25 (A) Income shall be apportioned to a LAMBRA by
26 multiplying total business income by a fraction, the
27 numerator of which is the property factor plus the payroll
28 factor, and the denominator of which is two.

29 (B) “The LAMBRA” shall be substituted for “this
30 state.”

31 (3) The portion of any credit remaining, if any, after
32 application of this subdivision, shall be carried over to
33 succeeding taxable years, as if it were an amount
34 exceeding the “net tax” for the taxable year, as provided
35 in subdivision (g).

36 (i) If the taxpayer is allowed a credit pursuant to this
37 section for qualified wages paid or incurred, only one
38 credit shall be allowed to the taxpayer under this part
39 with respect to any wage consisting in whole or in part of
40 those qualified wages.

1 (j) This section shall remain in effect only until
2 December 1, 2003, and as of that date is repealed.
3 However, any unused credit may continue to be carried
4 forward as provided in subdivision (g), until the credit is
5 exhausted.

6 SEC. 6. Section 17053.49 of the Revenue and Taxation
7 Code is amended to read:

8 17053.49. (a) (1) A qualified taxpayer shall be
9 allowed a credit against the “net tax,” as defined in
10 Section 17039, equal to 6 percent of the qualified cost of
11 qualified property that is placed in service in this state.

12 (2) In the case of any qualified costs paid or incurred
13 on or after January 1, 1994, and prior to the first taxable
14 year of the qualified taxpayer beginning on or after
15 January 1, 1995, the credit provided under paragraph (1)
16 shall be claimed by the qualified taxpayer on the qualified
17 taxpayer’s return for the first taxable year beginning on
18 or after January 1, 1995. No credit shall be claimed under
19 this section on a return filed for any taxable year
20 commencing prior to the qualified taxpayer’s first taxable
21 year beginning on or after January 1, 1995.

22 (b) (1) For purposes of this section, “qualified cost”
23 means any cost that satisfies each of the following
24 conditions:

25 (A) Except as otherwise provided in this
26 subparagraph, is a cost paid or incurred by the qualified
27 taxpayer for the construction, reconstruction, or
28 acquisition of qualified property on or after January 1,
29 1994, and prior to the date this section ceases to be
30 operative under paragraph (2) of subdivision (i). In the
31 case of any qualified property constructed,
32 reconstructed, or acquired by the qualified taxpayer (or
33 any person related to the qualified taxpayer within the
34 meaning of Section 267 or 707 of the Internal Revenue
35 Code) pursuant to a binding contract in existence on or
36 prior to January 1, 1994, costs paid pursuant to that
37 contract shall be subject to allocation as follows: contract
38 costs shall be allocated to qualified property based on a
39 ratio of costs actually paid prior to January 1, 1994, and
40 total contract costs actually paid. “Cost paid” shall

1 include, without limitation, contractual deposits and
2 option payments. To the extent of costs allocated,
3 whether or not currently deductible or depreciable for
4 tax purposes, to a period prior to January 1, 1994, the cost
5 shall be deemed allocated to property acquired before
6 January 1, 1994, and is thus not a “qualified cost.”

7 (B) Except as provided in paragraph (2) of subdivision
8 (d) and subparagraph (B) of paragraph (3) of subdivision
9 (d), is an amount upon which the qualified taxpayer has
10 paid, directly or indirectly as a separately stated contract
11 amount or as determined from the records of the
12 qualified taxpayer, sales or use tax under Part 1
13 (commencing with Section 6001).

14 (C) Is an amount properly chargeable to the capital
15 account of the qualified taxpayer.

16 (2) (A) For purposes of this subdivision, any contract
17 entered into on or after January 1, 1994, that is a successor
18 or replacement contract to a contract that was binding
19 prior to January 1, 1994, shall be treated as a binding
20 contract in existence prior to January 1, 1994.

21 (B) If a successor or replacement contract is entered
22 into on or after January 1, 1994, and the subject of the
23 successor or replacement contract relates both to
24 amounts for the construction, reconstruction, or
25 acquisition of qualified property described in the original
26 binding contract and to costs for the construction,
27 reconstruction, or acquisition of qualified property not
28 described in the original binding contract, then the
29 portion of those amounts described in the successor or
30 replacement contract that were not described in the
31 original binding contract shall not be treated as costs paid
32 or incurred pursuant to a binding contract in existence on
33 or prior to January 1, 1994, under subparagraph (A) of
34 paragraph (1).

35 (3) (A) For purposes of this section, an option
36 contract in existence prior to January 1, 1994, under which
37 a qualified taxpayer (or any other person related to the
38 qualified taxpayer within the meaning of Section 267 or
39 707 of the Internal Revenue Code) had an option to
40 acquire qualified property, shall be treated as a binding

1 contract under the rules in paragraph (2). For purposes
2 of this subparagraph, an option contract shall not include
3 an option under which the option holder will forfeit an
4 amount less than 10 percent of the fixed option price in
5 the event the option is not exercised.

6 (B) For purposes of this section, a contract shall be
7 treated as binding even if the contract is subject to a
8 condition.

9 (c) (1) For purposes of this section, “qualified
10 taxpayer” means any taxpayer or partnership engaged in
11 those lines of business described in Codes 2011 to 3999,
12 inclusive, of the Standard Industrial Classification (SIC)
13 Manual published by the United States Office of
14 Management and Budget, 1987 edition.

15 (2) In the case of any passthrough entity, the
16 determination of whether a taxpayer is a qualified
17 taxpayer under this section shall be made at the entity
18 level and any credit under this section or Section 23649
19 shall be allowed to the passthrough entity and passed
20 through to the partners or shareholders in accordance
21 with applicable provisions of Part 10 (commencing with
22 Section 17001) or Part 11 (commencing with Section
23 23001). For purposes of this paragraph, the term
24 “passthrough entity” means any partnership or S
25 corporation.

26 (3) The Franchise Tax Board may prescribe
27 regulations to carry out the purposes of this section,
28 including any regulations necessary to prevent the
29 avoidance of the effect of this section through splitups,
30 shell corporations, partnerships, tiered ownership
31 structures, sale-leaseback transactions, or otherwise.

32 (d) For purposes of this section, “qualified property”
33 means property that is described as either of the
34 following:

35 (1) Tangible personal property that is defined in
36 Section 1245(a) of the Internal Revenue Code for use by
37 a qualified taxpayer in those lines of business described in
38 Codes 2011 to 3999, inclusive, of the Standard Industrial
39 Classification (SIC) Manual published by the United

1 States Office of Management and Budget, 1987 edition,
2 that is primarily used for any of the following:

3 (A) For the manufacturing, processing, refining,
4 fabricating, or recycling of property, beginning at the
5 point at which any raw materials are received by the
6 qualified taxpayer and introduced into the process and
7 ending at the point at which the manufacturing,
8 processing, refining, fabricating, or recycling has altered
9 tangible personal property to its completed form,
10 including packaging, if required.

11 (B) In research and development.

12 (C) To maintain, repair, measure, or test any property
13 described in this paragraph.

14 (D) For pollution control that meets or exceeds
15 standards established by the state or by any local or
16 regional governmental agency within the state.

17 (E) For recycling.

18 (2) The value of any capitalized labor costs that are
19 directly allocable to the construction or modification of
20 property described in paragraph (1).

21 (3) In the case of any qualified taxpayer engaged in
22 manufacturing activities described in SIC Code 357 or
23 367, those activities related to biotechnology described in
24 SIC Code 8731, those activities related to
25 biopharmaceutical establishments only that are
26 described in SIC Codes 2833 to 2836, inclusive, those
27 activities related to space vehicles and parts described in
28 SIC Codes 3761 to 3769, inclusive, those activities related
29 to space satellites and communications satellites and
30 equipment described in SIC Codes 3663 and 3812 (but
31 only with respect to “qualified property” that is placed in
32 service on or after January 1, 1996), or those activities
33 related to semiconductor equipment manufacturing
34 described in SIC Code 3559 (but only with respect to
35 “qualified property” that is placed in service on or after
36 January 1, 1997), “qualified property” also includes the
37 following:

38 (A) Special purpose buildings and foundations that are
39 constructed or modified for use by the qualified taxpayer
40 primarily in a manufacturing, processing, refining, or

1 fabricating process, or as a research or storage facility
2 primarily used in connection with a manufacturing
3 process.

4 (B) The value of any capitalized labor costs that are
5 directly allocable to the construction or modification of
6 special purpose buildings and foundations that are used
7 primarily in the manufacturing, processing, refining, or
8 fabricating process, or as a research or storage facility
9 primarily used in connection with a manufacturing
10 process.

11 (C) (i) For purposes of this paragraph, “special
12 purpose building and foundation” means only a building
13 and the foundation immediately underlying the building
14 that is specifically designed and constructed or
15 reconstructed for the installation, operation, and use of
16 specific machinery and equipment with a special
17 purpose, which machinery and equipment, after
18 installation, will become affixed to or a fixture of the real
19 property, and the construction or reconstruction of which
20 is specifically designed and used exclusively for the
21 specified purposes as set forth in subparagraph (A)
22 (“qualified purpose”).

23 (ii) A building is specifically designed and constructed
24 or modified for a qualified purpose if it is not economic to
25 design and construct the building for the intended
26 purpose and then use the structure for a different
27 purpose.

28 (iii) For purposes of clause (i) and clause (vi), a
29 building is used exclusively for a qualified purpose only if
30 its use does not include a use for which it was not
31 specifically designed and constructed or modified.
32 Incidental use of a building for nonqualified purposes
33 does not preclude the building from being a special
34 purpose building. “Incidental use” means a use which is
35 both related and subordinate to the qualified purpose. It
36 will be conclusively presumed that a use is not
37 subordinate if more than one-third of the total usable
38 volume of the building is devoted to a use which is not a
39 qualified purpose.

1 (iv) In the event an entire building does not qualify as
2 a special purpose building, a taxpayer may establish that
3 a portion of a building, and the foundation immediately
4 underlying the portion, qualifies for treatment as a special
5 purpose building and foundation if the portion satisfies all
6 of the definitional provisions in this subparagraph.

7 (v) To the extent that a building is not a special
8 purpose building as defined above, but a portion of the
9 building qualifies for treatment as a special purpose
10 building, then all equipment which exclusively supports
11 the qualified purpose occurring within that portion and
12 which would qualify as Internal Revenue Code Section
13 1245 property if it were not a fixture or affixed to the
14 building shall be treated as a cost of the portion of the
15 building which qualifies for treatment as a special
16 purpose building.

17 (vi) Buildings and foundations which do not meet the
18 definition of a special purpose building and foundation set
19 forth above include, but are not limited to: buildings
20 designed and constructed or reconstructed principally to
21 function as a general purpose manufacturing, industrial,
22 or commercial building; research facilities that are used
23 primarily prior to or after, or prior to and after, the
24 manufacturing process; or storage facilities that are used
25 primarily prior to or after, or prior to and after,
26 completion of the manufacturing process. A research
27 facility shall not be considered to be used primarily prior
28 to or after, or prior to and after, the manufacturing
29 process if its purpose and use relate exclusively to the
30 development and regulatory approval of the
31 manufacturing process for specific biopharmaceutical
32 products. A research facility which is used primarily in
33 connection with the discovery of an organism from which
34 a biopharmaceutical product or process is developed does
35 not meet the requirements of the preceding sentence.

36 (4) Subject to the provisions in subparagraph (B) of
37 paragraph (1) of subdivision (b), qualified property also
38 includes computer software that is primarily used for
39 those purposes set forth in paragraph (1) of this
40 subdivision.

(5) Qualified property does not include any of the following:

(A) Furniture.

(B) Facilities used for warehousing purposes after completion of the manufacturing process.

(C) Inventory.

(D) Equipment used in the extraction process.

(E) Equipment used to store finished products that have completed the manufacturing process.

(F) Any tangible personal property that is used in administration, general management, or marketing.

(G) Any vehicle for which a credit is claimed pursuant to Section 17052.11 or 23603.

(e) For purposes of this section:

(1) “Biopharmaceutical activities” means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(2) “Fabricating” means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) “Manufacturing” means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(4) “Other biotechnology activities” means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(5) “Primarily” means tangible personal property used 50 percent or more of the time in an activity described in subdivision (d).

(6) “Process” means the period beginning at the point at which any raw materials are received by the qualified taxpayer and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified taxpayer and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified taxpayer has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified taxpayer’s manufacturing, processing, refining, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified taxpayer’s manufacturing, processing, refining, fabricating, or recycling activity is conducted, shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(7) “Processing” means the physical application of the materials and labor necessary to modify or change the characteristics of property.

(8) “Refining” means the process of converting a natural resource to an intermediate or finished product.

(9) “Research and development” means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(10) “Small business” means a qualified taxpayer that meets any of the following requirements during the taxable year for which the credit is allowed:

(A) Has gross receipts of less than fifty million dollars (\$50,000,000).

(B) Has net assets of less than fifty million dollars (\$50,000,000).

(C) Has a total credit of less than one million dollars (\$1,000,000).

(D) For taxable years beginning on or after January 1, 1997, is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and has not received regulatory approval for any product from the United States Food and Drug Administration.

(f) The credit allowed under subdivision (a) shall apply to qualified property that is acquired by or subject to lease by a qualified taxpayer, subject to the following special rules:

(1) A lessor of qualified property, irrespective of whether the lessor is a qualified taxpayer, shall not be allowed the credit provided under subdivision (a) with respect to any qualified property leased to another qualified taxpayer.

(2) For purposes of paragraphs (2) and (3) of subdivision (b), “binding contract” shall include any lease agreement with respect to the qualified property.

(3) (A) For purposes of determining the qualified cost paid or incurred by a lessee in any leasing transaction that is not treated as a sale under Part 1 (commencing with Section 6001), the following rules shall apply:

(i) Except as provided by subparagraph (C) of this paragraph, subparagraphs (A) and (C) of paragraph (1) of subdivision (b) shall not apply.

(ii) Except as provided in subparagraph (B) and clause (iii), the “qualified cost” upon which the lessee shall compute the credit provided under this section shall be equal to the original cost to the lessor (within the meaning of Section 18031) of the qualified property that is the subject of the lease.

(iii) Except as provided in clause (iv), the requirement of subparagraph (B) of paragraph (1) of subdivision (b) shall be treated as satisfied only if the lessor has made a timely election under either Section 6094.1 or subdivision (d) of Section 6244 and has paid sales tax reimbursement or use tax measured by the purchase price of the qualified property (within the meaning of

1 paragraph (5) of subdivision (g) of Section 6006). For
2 purposes of this subdivision and clause (iv), the amount
3 of original cost to the lessor which may be taken into
4 account under clause (ii) shall not exceed the purchase
5 price upon which sales tax reimbursement or use tax has
6 been paid under the preceding sentence or under clause
7 (iv).

8 (iv) With respect to leases entered into between
9 January 1, 1994, and the effective date of this clause, the
10 lessor may elect to pay use tax measured by the purchase
11 price of the property by reporting and paying the tax with
12 the return of the lessor for the fourth calendar quarter of
13 1994. In computing the use tax under the preceding
14 sentence, a credit shall be allowed under Part 1
15 (commencing with Section 6001) for all sales or use tax
16 previously paid on the lease.

17 (B) For purposes of applying subparagraph (A) only,
18 the following special rules shall apply:

19 (i) The original cost to the lessor of the qualified
20 property shall be reduced by the amount of any original
21 cost of that property that was taken into account by any
22 predecessor lessee in computing the credit allowable
23 under this section.

24 (ii) Clause (i) shall not apply in any case where the
25 predecessor lessee was required to recapture the credit
26 provided under this section pursuant to the provisions of
27 subdivision (g).

28 (iii) For purposes of this section only, in any case
29 where a successor lessor has acquired qualified property
30 from a predecessor lessor in a transaction not treated as
31 a sale under Part 1 (commencing with Section 6001), the
32 original cost to the successor lessor of the qualified
33 property shall be reduced by the amount of the original
34 cost of the qualified property that was taken into account
35 by any lessee of the predecessor lessor in computing the
36 credit allowable under this section.

37 (C) In determining the original cost of any qualified
38 property under this paragraph, only amounts paid or
39 incurred by the lessor on or after January 1, 1994, and
40 prior to the date this section ceases to be operative under

1 paragraph (2) of subdivision (i), shall be taken into
2 account. In the case of any qualified property
3 constructed, reconstructed, or acquired by a lessor
4 pursuant to a binding contract in existence on or prior to
5 January 1, 1994, the allocation rule specified in
6 subparagraph (A) of paragraph (1) of subdivision (b)
7 shall apply in determining the original cost to the lessor
8 of qualified property.

9 (D) Notwithstanding subparagraph (A), in the case of
10 any leasing transaction for which the lessee is allowed the
11 credit under this section and thereafter the lessee (or any
12 party related to the lessee within the meaning of Section
13 267 or 318 of the Internal Revenue Code) acquires the
14 qualified property from the lessor (or any successor
15 lessor) within one year from the date the qualified
16 property is first used by the lessee under the terms of the
17 lease, the lessee's (or related party's) acquisition of the
18 qualified property from the lessor (or successor lessor)
19 shall be treated as a disposition by the lessee of the
20 qualified property that was subject to the lease under
21 subdivision (g).

22 (4) For purposes of determining the qualified cost
23 paid or incurred by a lessee in any leasing transaction that
24 is treated as a sale under Part 1 (commencing with
25 Section 6001), the following rules shall apply:

26 (A) Subparagraph (A) of paragraph (1) of subdivision
27 (b) shall be applied by substituting the term "purchase"
28 for the term "construction, reconstruction, or
29 acquisition."

30 (B) Subparagraph (C) of paragraph (1) of subdivision
31 (b) shall apply.

32 (C) The requirement of subparagraph (B) of
33 paragraph (1) of subdivision (b) shall be treated as
34 satisfied at the time that either the lessor or the qualified
35 taxpayer pays sales or use tax under Part 1 (commencing
36 with Section 6001).

37 (5) (A) In the case of any leasing transaction
38 described in paragraph (3), the lessor shall provide a
39 statement to the lessee specifying the amount of the
40 lessor's original cost of the qualified property and the

1 amount of that cost upon which a sales or use tax was paid
2 within 45 days after the close of the lessee's taxable year
3 in which the credit is allowable to the lessee under this
4 section.

5 (B) The statement required under subparagraph (A)
6 shall be made available to the Franchise Tax Board upon
7 request.

8 (g) No credit shall be allowed if the qualified property
9 is removed from the state, is disposed of to an unrelated
10 party, or is used for any purpose not qualifying for the
11 credit provided in this section in the same taxable year in
12 which the qualified property is first placed in service in
13 this state. If any qualified property for which a credit is
14 allowed pursuant to this section is thereafter removed
15 from this state, disposed of to an unrelated party, or used
16 for any purpose not qualifying for the credit provided in
17 this section within one year from the date the qualified
18 property is first placed in service in this state, the amount
19 of the credit allowed by this section for that qualified
20 property shall be recaptured by adding that credit
21 amount to the net tax of the qualified taxpayer for the
22 taxable year in which the qualified property is disposed
23 of, removed, or put to an ineligible use.

24 (h) In the case where the credit allowed by this section
25 exceeds the "net tax," the excess may be carried over to
26 reduce the "net tax" in the following year, and
27 succeeding years as follows:

28 (1) Except as provided in paragraph (2), for the seven
29 succeeding years if necessary, until the credit is
30 exhausted.

31 (2) In the case of a small business, for the nine
32 succeeding years, if necessary, until the credit is
33 exhausted.

34 (i) (1) This section shall remain in effect until the
35 date specified in paragraph (2), on which date this section
36 shall cease to be operative, and as of that date is repealed.
37 However, any unused credit may continue to be carried
38 forward, as provided in subdivision (h), until the credit
39 is exhausted.

(2) (A) This section shall cease to be operative on January 1, 2001, or on January 1 of the earliest year thereafter, if the total employment in this state, as determined by the Employment Development Department on the preceding January 1, does not exceed by 100,000 jobs the total employment in this state on January 1, 1994. The department shall report to the Legislature annually with respect to the determination required by the preceding sentence.

(B) For purposes of this paragraph, “total employment” means the total employment in the manufacturing sector, excluding employment in the aerospace sector.

(j) The amendments made by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 1997, except as provided in paragraph (3) of subdivision (d).

SEC. 7. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the

1 alternative minimum taxable income for the taxable year
2 as exceeds the exemption amount, before reduction for
3 any credits against the tax:

4 (i) For any taxable year beginning on or after January
5 1, 1991, and before January 1, 1996, 8.5 percent.

6 (ii) For any taxable year beginning on or after January
7 1, 1996, 7 percent.

8 (B) In the case of a nonresident or part-year resident,
9 the tentative minimum tax shall be computed as if the
10 nonresident or part-year resident were a resident for the
11 entire year multiplied by the ratio of California adjusted
12 gross income (as modified for purposes of this chapter) to
13 total adjusted gross income from all sources (as modified
14 for purposes of this chapter). For purposes of computing
15 the tax under subparagraph (A) and gross income from
16 all sources, the net operating loss deduction provided in
17 Section 56(d) of the Internal Revenue Code shall be
18 computed as if the taxpayer were a resident for all prior
19 years.

20 (C) For purposes of this section, the term “California
21 adjusted gross income” includes each of the following:

22 (i) For any period during which the taxpayer was a
23 resident of this state (as defined by Section 17014), all
24 items of adjusted gross income (as modified for purposes
25 of this chapter), regardless of source.

26 (ii) For any period during which the taxpayer was not
27 a resident of this state, only those items of adjusted gross
28 income (as modified for purposes of this chapter) which
29 were derived from sources within this state, determined
30 in accordance with Chapter 11 (commencing with
31 Section 17951).

32 (4) The provisions of Section 55(b)(2) of the Internal
33 Revenue Code, relating to alternative minimum taxable
34 income, shall be modified to provide that alternative
35 minimum taxable income shall not include the income,
36 adjustments, and items of tax preference attributable to
37 any trade or business of a qualified taxpayer.

38 (A) For purposes of this paragraph, “qualified
39 taxpayer” means a taxpayer who meets both of the
40 following:

1 (i) Is the owner of, or has an ownership interest in, a
2 trade or business.

3 (ii) Has aggregate gross receipts, less returns and
4 allowances, of less than one million dollars (\$1,000,000)
5 during the taxable year from all trades or businesses of
6 which the taxpayer is the owner or has an ownership
7 interest, in the amount of that taxpayer's proportionate
8 interest in each trade or business.

9 (B) For purposes of this paragraph, "aggregate gross
10 receipts, less returns and allowances" means the sum of
11 the gross receipts of the trades or businesses which the
12 taxpayer owns and the proportionate interest of the gross
13 receipts of the trades or businesses which the taxpayer
14 owns and of passthrough entities in which the taxpayer
15 holds an interest.

16 (C) For purposes of this paragraph, "gross receipts,
17 less returns and allowances" means the sum of the gross
18 receipts from the production of business income, as
19 defined in subdivision (a) of Section 25120, and the gross
20 receipts from the production of nonbusiness income, as
21 defined in subdivision (d) of Section 25120.

22 (D) For purposes of this paragraph, "proportionate
23 interest" means:

24 (i) In the case of a passthrough entity which reports a
25 profit for the taxable or income year, the taxpayer's profit
26 interest in the entity at the end of the taxpayer's taxable
27 year.

28 (ii) In the case of a passthrough entity which reports
29 a loss for the taxable or income year, the taxpayer's loss
30 interest in the entity at the end of the taxpayer's taxable
31 year.

32 (iii) In the case of a passthrough entity which is sold or
33 liquidates during the taxable or income year, the
34 taxpayer's capital account interest in the entity at the
35 time of the sale or liquidation.

36 (E) (i) For purposes of this paragraph,
37 "proportionate interest" includes an interest in a
38 passthrough entity.

39 (ii) For purposes of this paragraph, "passthrough
40 entity" means any of the following:

- 1 (I) A partnership, as defined by Section 17008.
- 2 (II) An S corporation, as provided in Chapter 4.5
3 (commencing with Section 23800) of Part 11.
- 4 (III) A regulated investment company, as provided in
5 Section 24871.
- 6 (IV) A real estate investment trust, as provided in
7 Section 24872.
- 8 (V) A real estate mortgage investment conduit, as
9 provided in Section 24874.
- 10 (c) (1) Section 56(b)(1)(E) of the Internal Revenue
11 Code, relating to standard deduction and deduction for
12 personal exemptions not allowed, is modified, for
13 purposes of this part, to deny the standard deduction
14 allowed by Section 17073.5.
- 15 (2) Section 56(b)(3) of the Internal Revenue Code,
16 relating to treatment of incentive stock options, shall be
17 modified to additionally provide the following:
- 18 (A) Section 421 of the Internal Revenue Code shall not
19 apply to the transfer of stock acquired pursuant to the
20 exercise of a California qualified stock option under
21 Section 17502.
- 22 (B) Section 422(c)(2) of the Internal Revenue Code
23 shall apply in any case where the disposition and inclusion
24 of a California qualified stock option for purposes of this
25 chapter are within the same taxable year and that section
26 shall not apply in any other case.
- 27 (C) The adjusted basis of any stock acquired by the
28 exercise of a California qualified stock option shall be
29 determined on the basis of the treatment prescribed by
30 this paragraph.
- 31 (3) The provisions of Section 56(h) of the Internal
32 Revenue Code, relating to adjustment based on energy
33 preferences, shall not apply.
- 34 (d) The provisions of Section 57(a)(5) of the Internal
35 Revenue Code, relating to tax-exempt interest shall not
36 apply.
- 37 (e) The last two sentences of Section 57(a)(6)(B) of
38 the Internal Revenue Code, relating to tangible personal
39 property, shall not apply.

(f) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(g) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

SEC. 8. Section 17220 of the Revenue and Taxation Code is amended to read:

17220. (a) Section 164(a)(3) of the Internal Revenue Code, relating to the deductibility of state, local, and foreign income, war profits, and excess profits taxes, shall not apply.

(b) In addition to the provisions of Section 164(c) of the Internal Revenue Code, relating to deduction denied in case of certain taxes, no deduction shall be allowed for any tax imposed under Chapter 10.5 (commencing with Section 17935), Chapter 10.6 (commencing with Section 17941), or Chapter 10.7 (commencing with Section 17951) of this part or under Part 11 (commencing with Section 23001).

SEC. 8.5. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. The term “qualified taxpayer” as used in Section 17276.1 means any of the following:

(a) A person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as

1 modified by Section 17276.1, attributable to the taxpayer's
2 business activities within the enterprise zone (as defined
3 in Chapter 12.8 (commencing with Section 7070) of
4 Division 7 of Title 1 of the Government Code) prior to the
5 enterprise zone expiration date. That attributable loss
6 shall be determined in accordance with the provisions of
7 Chapter 17 (commencing with Section 25101) of Part 11,
8 modified for purposes of this section by substituting
9 "enterprise zone" for "this state."

10 (B) A net operating loss carryover shall be a deduction
11 only with respect to the taxpayer's business income
12 attributable to the enterprise zone (as defined in Chapter
13 12.8 (commencing with Section 7070) of Division 7 of
14 Title 1 of the Government Code) determined in
15 accordance with the provisions of Chapter 17
16 (commencing with Section 25101) of Part 11, modified for
17 purposes of this section by substituting "enterprise zone"
18 for "this state."

19 (C) If a loss carryover is allowable pursuant to this
20 section for any taxable year after the enterprise zone
21 designation has expired, the enterprise zone shall be
22 deemed to remain in existence for purposes of computing
23 the limitation set forth in subparagraph (B) and allowing
24 a net operating loss deduction.

25 (D) "Enterprise zone expiration date" means the date
26 the enterprise zone designation expires, is no longer
27 binding, or becomes inoperative.

28 (b) A person or entity engaged in the conduct of a
29 trade or business within the Los Angeles Revitalization
30 Zone designated pursuant to Section 7102 of the
31 Government Code.

32 (1) A net operating loss shall not be a net operating loss
33 carryback for any taxable year, and a net operating loss
34 for any taxable year beginning on or after the date the
35 area in which the taxpayer conducts a trade or business
36 is designated the Los Angeles Revitalization Zone shall be
37 a net operating loss carryover to each following taxable
38 year that ends before the Los Angeles Revitalization
39 Zone expiration date or to each of the 15 taxable years
40 following the taxable year of loss, if longer.

(2) For the purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) prior to the Los Angeles Revitalization Zone expiration date. The attributable loss shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified as follows:

(i) Loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The Los Angeles Revitalization Zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance with the provisions of paragraph (3).

(C) If a loss carryover is allowable pursuant to this section for any taxable year after the Los Angeles Revitalization Zone designation has expired, the Los Angeles Revitalization Zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(3) Attributable income shall be that portion of the taxpayer’s California source business income which is apportioned to the Los Angeles Revitalization Zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the Los Angeles Revitalization Zone in accordance with the

1 provisions of Article 2 (commencing with Section 25120)
2 of Chapter 17 of Part 11, modified as follows:

3 (A) Business income shall be apportioned to the Los
4 Angeles Revitalization Zone by multiplying total
5 California business income of the taxpayer by a fraction,
6 the numerator of which is the property factor plus the
7 payroll factor, and the denominator of which is two.

8 (B) The property factor is a fraction, the numerator of
9 which is the average value of the taxpayer's real and
10 tangible personal property owned or rented and used in
11 the Los Angeles Revitalization Zone during the taxable
12 year and the denominator of which is the average value
13 of all the taxpayer's real and tangible personal property
14 owned or rented and used in this state during the taxable
15 year.

16 (C) The payroll factor is a fraction, the numerator of
17 which is the total amount paid by the taxpayer in the Los
18 Angeles Revitalization Zone during the taxable year for
19 compensation, and the denominator of which is the total
20 compensation paid by the taxpayer in this state during the
21 taxable year.

22 (4) "Los Angeles Revitalization Zone expiration date"
23 means the date the Los Angeles Revitalization Zone
24 designation expires, is repealed, or becomes inoperative
25 pursuant to Section 7102, 7103, or 7104 of the Government
26 Code.

27 (5) This subdivision shall be inoperative on the first
28 day of the taxable year beginning on or after the
29 determination date, and each taxable year thereafter,
30 with respect to the taxpayer's business activities within a
31 geographic area that is excluded from the map pursuant
32 to Section 7102 of the Government Code, or an excluded
33 area determined pursuant to Section 7104 of the
34 Government Code. The determination date is the earlier
35 of the first effective date of a determination under
36 subdivision (c) of Section 7102 of the Government Code
37 occurring after December 1, 1994, or the first effective
38 date of an exclusion of an area from the amended Los
39 Angeles Revitalization Zone under Section 7104 of the
40 Government Code. However, if the taxpayer has any

1 unused loss amount as of the date this section becomes
2 inoperative, that unused loss amount may continue to be
3 carried forward as provided in this subdivision.

4 (6) This subdivision shall cease to be operative on
5 January 1, 1998. However, any unused net operating loss
6 may continue to be carried over to following years as
7 provided in this subdivision.

8 (c) For each taxable year beginning on or after
9 January 1, 1995, and before January 1, 2003, a taxpayer
10 engaged in the conduct of a trade or business within a
11 LAMBRA.

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year, and a net operating loss
14 for any taxable year beginning on or after the date the
15 area in which the taxpayer conducts a trade or business
16 is designated a LAMBRA shall be a net operating loss
17 carryover to each following taxable year that ends before
18 the LAMBRA expiration date or to each of the 15 taxable
19 years following the taxable year of loss, if longer.

20 (2) For the purposes of this subdivision:

21 (A) “LAMBRA” means a local agency military base
22 recovery area designated in accordance with Section 7114
23 of the Government Code.

24 (B) “Taxpayer” means a person or entity that
25 conducts a trade or business within a LAMBRA and, for
26 the first two taxable years, has a net increase in jobs
27 (defined as 2,000 paid hours per employee per year) of
28 one or more employees in the LAMBRA and this state.

29 (i) The net increase in the number of jobs shall be
30 determined by subtracting the total number of full-time
31 employees (defined as 2,000 paid hours per employee per
32 year) the taxpayer employed in this state in the taxable
33 year prior to commencing business operations in the
34 LAMBRA from the total number of full-time employees
35 the taxpayer employed in this state during the second
36 taxable year after commencing business operations in the
37 LAMBRA. For taxpayers who commence doing business
38 in this state with their LAMBRA business operation, the
39 number of employees for the taxable year prior to
40 commencing business operations in the LAMBRA shall

1 be zero. The deduction shall be allowed only if the
2 taxpayer has a net increase in jobs in the state, and if one
3 or more full-time employees is employed within the
4 LAMBRA.

5 (ii) The total number of employees employed in the
6 LAMBRA shall equal the sum of both of the following:

7 (I) The total number of hours worked in the LAMBRA
8 for the taxpayer by employees (not to exceed 2,000 hours
9 per employee) who are paid an hourly wage divided by
10 2,000.

11 (II) The total number of months worked in the
12 LAMBRA for the taxpayer by employees who are salaried
13 employees divided by 12.

14 (iii) In the case of a taxpayer who first commences
15 doing business in the LAMBRA during the taxable year,
16 for purposes of subclauses (I) and (II), respectively, of
17 clause (ii) the divisors “2,000” and “12” shall be
18 multiplied by a fraction, the numerator of which is the
19 number of months of the taxable year that the taxpayer
20 was doing business in the LAMBRA and the denominator
21 of which is 12.

22 (C) “Net operating loss” means the loss determined
23 under Section 172 of the Internal Revenue Code, as
24 modified by Section 17276.1, attributable to the taxpayer’s
25 business activities within a LAMBRA prior to the
26 LAMBRA expiration date. The attributable loss shall be
27 determined in accordance with the provisions of Chapter
28 17 (commencing with Section 25101) of Part 11, modified
29 as follows:

30 (i) Loss shall be apportioned to a LAMBRA by
31 multiplying total loss from the business by a fraction, the
32 numerator of which is the property factor plus the payroll
33 factor, and the denominator of which is two.

34 (ii) “The LAMBRA” shall be substituted for “this
35 state.”

36 (D) A net operating loss carryover shall be a deduction
37 only with respect to the taxpayer’s business income
38 attributable to a LAMBRA determined in accordance
39 with the provisions of Chapter 17 (commencing with
40 Section 25101) of Part 11, modified as follows:

1 (i) Business income shall be apportioned to a
2 LAMBRA by multiplying total business income by a
3 fraction, the numerator of which is the property factor
4 plus the payroll factor, and the denominator of which is
5 two.

6 (ii) “The LAMBRA” shall be substituted for “this
7 state.”

8 (iii) If a loss carryover is allowable pursuant to this
9 section for any taxable year after the LAMBRA
10 designation has expired, the LAMBRA shall be deemed
11 to remain in existence for purposes of computing this
12 limitation.

13 (E) “LAMBRA expiration date” means the date the
14 LAMBRA designation expires, is no longer binding, or
15 becomes inoperative pursuant to Section 7110 of the
16 Government Code.

17 (d) A taxpayer who qualifies as a “qualified taxpayer”
18 shall, for the taxable year of the net operating loss and any
19 taxable year to which that net operating loss may be
20 carried, designate on the original return filed for each
21 year the subdivision of this section which applies to that
22 taxpayer with respect to that net operating loss. If the
23 taxpayer is eligible to qualify under more than one
24 subdivision of this section, the designation is to be made
25 after taking into account subdivision (e).

26 (e) If a taxpayer is eligible to qualify under more than
27 one subdivision of this section as a “qualified taxpayer,”
28 with respect to a net operating loss in a taxable year, the
29 taxpayer shall designate which subdivision of this section
30 is to apply to the taxpayer.

31 (f) Notwithstanding Section 17276, the amount of the
32 loss determined under this section shall be the only net
33 operating loss allowed to be carried over from that
34 taxable year and the designation under subdivision (d)
35 shall be included in the election under Section 17276.1.

36 SEC. 9. Section 17502 of the Revenue and Taxation
37 Code is amended to read:

38 17502. (a) In addition to the application of Part II
39 (commencing with Section 421) of Subchapter D of
40 Chapter 1 of Subtitle A of the Internal Revenue Code,

1 relating to certain stock options, paragraphs (1), (2), and
2 (3) of Section 421(a) of the Internal Revenue Code shall
3 also apply to any California qualified stock option that is
4 granted to an individual whose earned income from the
5 corporation granting the California qualified stock option
6 for the taxable year in which that option is exercised does
7 not exceed forty thousand dollars (\$40,000). In the event
8 that the option does not meet the necessary
9 qualifications, the option shall be treated as a
10 nonqualified stock option.

11 (b) For purposes of this section, “California qualified
12 stock option” means a stock option that is issued and
13 exercised pursuant to this section and that is designated
14 by the corporation issuing the option as a California
15 qualified stock option at the time the option is granted.

16 (c) (1) This section shall apply only to those stock
17 options that are issued on or after January 1, 1997, and
18 before January 1, 2002, by a corporation to its employee
19 and are exercised by the employee, while employed by
20 the corporation that issued those stock options (or within
21 three months thereof, or within one year thereof if
22 permanently and totally disabled as defined in Section
23 22(e)(3) of the Internal Revenue Code), during the
24 taxable year with respect to any class of shares, or
25 combination thereof, issued by the corporation, to the
26 extent that the number of shares transferable by the
27 exercise of the options does not exceed a total of 1,000 and
28 have a combined fair market value of less than one
29 hundred thousand dollars (\$100,000). The combined fair
30 market value of any stock shall be determined as of the
31 time the option with respect to that stock is granted.

32 (2) Paragraph (1) shall be applied by taking options
33 into account in the order in which they were granted.

34 (d) In the case of a California qualified stock option, no
35 amount shall be included in the gross income of the
36 employee until such time as the disposition of the option
37 (or the stock acquired upon exercise of the option).

38 No deduction shall be allowed under Section 162 of the
39 Internal Revenue Code to the employer on the grant or
40 exercise of a California qualified stock option.

(e) Subdivision (d) shall not apply to any stock option for which an election has been made under Section 83(b) of the Internal Revenue Code, relating to election to include in gross income in year of transfer.

SEC. 9.5. Section 17570 of the Revenue and Taxation Code is amended to read:

17570. (a) For each taxable year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, as added by Section 13223 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), shall apply, except as otherwise provided.

(b) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

SEC. 9.6. Section 17935 of the Revenue and Taxation Code is amended to read:

17935. (a) For each taxable year beginning on or after January 1, 1997, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 18633 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153.

(b) In addition to any limited partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 of the Corporations Code, shall pay annually the tax

1 prescribed in subdivision (a). The tax shall be paid for
2 each taxable year, or part thereof, until a certificate of
3 cancellation is filed on behalf of the limited partnership
4 with the office of the Secretary of State pursuant to
5 Section 15696 of the Corporations Code.

6 (c) The tax imposed under this section shall be due
7 and payable on the date the return is required to be filed
8 under former Section 18432 or Section 18633.

9 (d) For purposes of this section, “limited partnership”
10 means any partnership formed by two or more persons
11 under the laws of this state or any other jurisdiction and
12 having one or more general partners and one or more
13 limited partners.

14 SEC. 9.7. Section 17936 is added to the Revenue and
15 Taxation Code, to read:

16 17936. A limited partnership shall not be subject to
17 the taxes imposed by this chapter if the limited
18 partnership did no business in this state during the taxable
19 year and the taxable year was 15 days or less.

20 SEC. 10. Section 18402 of the Revenue and Taxation
21 Code is amended to read:

22 18402. (a) Except where the context otherwise
23 requires, the general provisions and definitions provided
24 in Chapter 1 (commencing with Section 17001) of Part 10
25 and in Chapter 1 (commencing with Section 23001) of
26 Part 11 shall apply to this part.

27 (b) For purposes of this part, “person” includes an
28 individual, fiduciary, partnership, limited liability
29 company, corporation, or organization exempt from
30 taxation under Section 23701.

31 (c) (1) Whenever provisions of this part are applied
32 in connection with Part 10 (commencing with Section
33 17001), the terms “taxpayer,” “corporation” and “taxable
34 year” have the same meaning as defined in Chapter 1
35 (commencing with Section 17001) of Part 10.

36 (2) Whenever provisions of this part are applied in
37 connection with Part 11 (commencing with Section
38 23001), the terms “taxpayer,” “corporation,” “income
39 year,” and “taxable year” have the same meaning as

1 defined in Article 2 (commencing with Section 23030) of
2 Chapter 1 of Part 11.

3 SEC. 11. Section 18604 of the Revenue and Taxation
4 Code is amended to read:

5 18604. (a) The Franchise Tax Board may grant a
6 reasonable extension of time for filing any return,
7 declaration, statement, or other document required by
8 Part 11 (commencing with Section 23001), in the manner
9 and form as the Franchise Tax Board may determine. No
10 extension or extensions shall aggregate more than seven
11 months from the due date for filing the return.

12 (b) An extension for the filing of the return of taxes
13 imposed by Part 11 (commencing with Section 23001)
14 shall be allowed any corporation if, in the manner and at
15 the time as the Franchise Tax Board may prescribe, that
16 corporation pays, on or before the date prescribed for
17 payment of the tax, the amount properly estimated as
18 provided in Section 19023 or 19024.

19 (c) An extension of time granted pursuant to this
20 section is not an extension of time for payment of tax
21 required to be paid on or before the due date of the return
22 without regard to extension. Underpayment of tax
23 penalties shall be imposed as provided by law without
24 regard to any extension granted under this section.

25 SEC. 12. Section 18606 of the Revenue and Taxation
26 Code is amended to read:

27 18606. (a) In cases where receivers, trustees in a case
28 under Title 11 of the United States Code, or assignees are
29 operating the property or business of a corporation those
30 receivers, trustees, or assignees shall make returns for
31 that corporation in the same manner and form as that
32 corporation is required to make a return.

33 (b) Any tax due on the basis of returns made by
34 receivers, trustees, or assignees shall be collected in the
35 same manner as if collected from the corporation of
36 whose business or property they have custody and
37 control.

38 SEC. 13. Section 18621.5 of the Revenue and Taxation
39 Code is amended to read:

1 18621.5. (a) Any return, declaration, statement, or
2 other document required to be made under this part that
3 is filed using electronic technology shall be in a form as
4 the Franchise Tax Board may prescribe and is not
5 complete, and therefore not filed, unless an electronic
6 filing declaration is signed by the taxpayer, in accordance
7 with Section 18621 in the case of individuals, subdivision
8 (a) of Section 18505 in the case of estates or trusts,
9 corporations, or limited liability companies classified as
10 corporations for California income tax purposes,
11 subdivision (a) of Section 18633 in the case of a
12 partnership, or Section 18633.5 in the case of limited
13 liability companies classified as partnerships for
14 California income tax purposes. The Franchise Tax Board
15 may prescribe forms and instructions for requiring the
16 electronic filing declaration to be retained by the
17 preparer or taxpayer and may require the declaration to
18 be furnished to the Franchise Tax Board upon request.

19 (b) Notwithstanding any other provision of law, any
20 return, declaration, statement, or other document
21 otherwise required to be signed that is filed in a
22 traditional medium and captured using electronic
23 imaging technology shall be deemed to be a valid original
24 document upon reproduction to paper form by the
25 Franchise Tax Board.

26 (c) Notwithstanding any other law, any return,
27 declaration, statement, or other document otherwise
28 required to be signed that is filed by the taxpayer using
29 electronic technology in a form as required by the
30 Franchise Tax Board shall be deemed to be a signed, valid
31 original document, including upon reproduction to paper
32 form by the Franchise Tax Board.

33 (d) “Electronic imaging technology” means a system
34 of microphotography, optical disk, or reproduction by
35 other technique that does not permit additions, deletions,
36 or changes to the original document. The system may
37 include, but is not limited to, any magnetic media or other
38 machine-readable form.

39 (e) “Traditional medium” means any return,
40 declaration, statement, or other document required to be

1 made pursuant to this article other than those made using
2 electronic imaging technology.

3 (f) “Electronic technology” includes, but is not
4 limited to, computer modem, magnetic media, optical
5 disk, facsimile machine, or telephone.

6 SEC. 14. Section 18633 of the Revenue and Taxation
7 Code is amended to read:

8 18633. (a) (1) Every partnership, within three
9 months and 15 days after the close of its taxable year, shall
10 make a return for that taxable year, stating specifically
11 the items of gross income and the deductions allowed by
12 Part 10 (commencing with Section 17001). Except as
13 otherwise provided in Section 18621.5, the return shall
14 include the names, addresses, and taxpayer identification
15 numbers of the persons, whether residents or
16 nonresidents, who would be entitled to share in the net
17 income if distributed and the amount of the distributive
18 share of each person. The return shall contain or be
19 verified by a written declaration that it is made under the
20 penalties of perjury, signed by one of the partners.

21 (2) In addition to returns required by paragraph (1),
22 every limited partnership subject to the tax imposed by
23 subdivision (b) of Section 17935 or 23081, within three
24 months and 15 days after the close of its taxable year, shall
25 make a return for that year. The Franchise Tax Board
26 shall prescribe the manner and extent to which the
27 information identified in paragraph (1) shall be included
28 with the return required by this paragraph.

29 (b) Each partnership required to file a return under
30 subdivision (a) for any taxable year shall (on or before the
31 day on which the return for that taxable year was
32 required to be filed) furnish to each person who is a
33 partner or who holds an interest in that partnership as a
34 nominee for another person at any time during that
35 taxable year a copy of that information required to be
36 shown on that return as may be required by regulations.

37 (c) Any person who holds an interest in a partnership
38 as a nominee for another person shall do both of the
39 following:

1 (1) Furnish to the partnership, in the manner
2 prescribed by the Franchise Tax Board, the name,
3 address, and taxpayer identification number of that other
4 person, and any other information for that taxable year as
5 the Franchise Tax Board may by form and regulation
6 prescribe.

7 (2) Furnish to that other person, in the manner
8 prescribed by the Franchise Tax Board, the information
9 provided by that partnership under subdivision (b).

10 (d) The provisions of Section 6031(d) of the Internal
11 Revenue Code, relating to the separate statement of
12 items of unrelated business taxable income, shall apply.

13 (e) The amendments made to this section by the act
14 adding this subdivision shall apply to returns required to
15 be filed under subdivision (a) after the effective date of
16 that act.

17 (f) The amendments made to this section by the act
18 adding this subdivision shall apply to returns required to
19 be filed on or after January 1, 1998.

20 SEC. 15. Section 18633.5 of the Revenue and Taxation
21 Code is amended to read:

22 18633.5. (a) Every limited liability company which is
23 classified as a partnership for California tax purposes that
24 is doing business in this state, organized in this state, or
25 registered with the Secretary of State shall file its return
26 within three months and 15 days after the close of its
27 taxable or income year, shall make a return for that
28 taxable year, stating specifically the items of gross income
29 and the deductions allowed by Part 10 (commencing with
30 Section 17001). The return shall include the names,
31 addresses, and taxpayer identification numbers of the
32 persons, whether residents or nonresidents, who would
33 be entitled to share in the net income if distributed and
34 the amount of the distributive share of each person. The
35 return shall contain or be verified by a written
36 declaration that it is made under the penalties of perjury,
37 signed by one of the limited liability company members.
38 In the case of a limited liability company subject to the tax
39 imposed by subdivision (b) of Section 17941 or 23091, the
40 Franchise Tax Board shall prescribe the manner and

1 extent to which the information identified in this
2 subdivision shall be included with the return required by
3 this subdivision.

4 (b) Each limited liability company required to file a
5 return under subdivision (a) for any limited liability
6 company taxable or income year shall, on or before the
7 day on which the return for that taxable or income year
8 was required to be filed, furnish to each person who holds
9 an interest in that limited liability company at any time
10 during that taxable or income year a copy of that
11 information required to be shown on that return as may
12 be required by forms and instructions prescribed by the
13 Franchise Tax Board.

14 (c) Any person who holds an interest in a limited
15 liability company as a nominee for another person shall
16 do both of the following:

17 (1) Furnish to the limited liability company, in the
18 manner prescribed by the Franchise Tax Board, the
19 name, address, and taxpayer identification number of
20 that person, and any other information for that taxable or
21 income year as the Franchise Tax Board may prescribe by
22 forms and instructions.

23 (2) Furnish to that other person, in the manner
24 prescribed by the Franchise Tax Board, the information
25 provided by that limited liability company under
26 subdivision (b).

27 (d) The provisions of Section 6031(d) of the Internal
28 Revenue Code, relating to the separate statement of
29 items of unrelated business taxable income, shall apply.

30 (e) (1) A limited liability company shall file with its
31 return required under subdivision (a), in the form
32 required by the Franchise Tax Board, the agreement of
33 each nonresident member to file a return pursuant to
34 Section 18501, to make timely payment of all taxes
35 imposed on the member by this state with respect to the
36 income of the limited liability company, and to be subject
37 to personal jurisdiction in this state for purposes of the
38 collection of income taxes, together with related interest
39 and penalties, imposed on the member by this state with
40 respect to the income of the limited liability company. If

1 the limited liability company fails timely to file the
2 agreements on behalf of each of its nonresident members,
3 then the limited liability company shall, at the time set
4 forth in subdivision (f), pay to this state on behalf of each
5 nonresident member of whom an agreement has not
6 been timely filed an amount equal to the highest marginal
7 tax rate in effect under Section 17041 in the case of
8 members which are individuals, estates, or trusts, and
9 Section 23151 in the case of members which are
10 corporations, multiplied by the amount of the member's
11 distributive share of the income source to the state
12 reflected on the limited liability company's return for the
13 taxable period. A limited liability company shall be
14 entitled to recover the payment made from the member
15 on whose behalf the payment was made.

16 (2) If a limited liability company fails to attach the
17 agreement or to timely pay the payment required by
18 paragraph (1), the payment shall be considered the tax
19 of the limited liability company for purposes of the
20 penalty prescribed by Section 19132 and interest
21 prescribed by Section 19101 for failure to timely pay tax.
22 Payment of the penalty and interest imposed on the
23 limited liability company for failure to timely pay the
24 amount required by this subdivision shall extinguish the
25 liability of a nonresident member for the penalty and
26 interest for failure to make timely payment of all taxes
27 imposed on that member by this state with respect to the
28 income of the limited liability company.

29 (3) No penalty or interest shall be imposed on the
30 limited liability company under paragraph (2) if the
31 nonresident member timely files and pays all taxes
32 imposed on the member by this state with respect to the
33 income of the limited liability company.

34 (f) Any agreement of a nonresident member required
35 to be filed pursuant to subdivision (e) shall be filed at
36 either of the following times:

37 (1) The time the annual return is required to be filed
38 pursuant to this section for the first taxable period for
39 which the limited liability company became subject to tax

1 pursuant to Chapter 1.6 (commencing with Section
2 23091).

3 (2) The time the annual return is required to be filed
4 pursuant to this section for any taxable period in which
5 the limited liability company had a nonresident member
6 on whose behalf such an agreement has not been
7 previously filed.

8 (g) Any amount paid by the limited liability company
9 to this state pursuant to paragraph (1) of subdivision (e)
10 shall be considered to be a payment by the member on
11 account of the income tax imposed by this state on the
12 member for the taxable period.

13 (h) Every limited liability company that is classified as
14 a corporation for California tax purposes shall be subject
15 to the requirement to file a tax return under the
16 provisions of Part 10.2 (commencing with Section 18401)
17 and subject to the applicable taxes imposed by Part 11
18 (commencing with Section 23001), including Section
19 23221, relating to the prepayment of the minimum tax to
20 the Secretary of State.

21 (i) The amendments made to this section by the act
22 adding this subdivision shall apply to returns required to
23 be filed on or after January 1, 1998.

24 SEC. 16. Section 18637 of the Revenue and Taxation
25 Code is amended to read:

26 18637. (a) Every individual, partnership, limited
27 liability company, corporation, joint stock company or
28 association, insurance company, business trust, or
29 so-called Massachusetts trust, engaged in a trade or
30 business in this state and making payment in the course
31 of the trade or business to another person, including
32 lessees or mortgagors of real or personal property,
33 fiduciaries, employers, and all officers and employees of
34 this state or any political subdivision of this state, or any
35 city organized under a freeholder's charter, or any
36 political body not a subdivision or agency of the state,
37 having the control, receipt, custody, disposal, or payment
38 of interest (other than interest coupons payable to
39 bearer), dividends, rent, salaries, wages, premiums,
40 annuities, compensations, remunerations, emoluments,

1 or other fixed or determinable annual or periodical gains,
2 profits, and income amounting to six hundred dollars
3 (\$600) or over, paid or payable during any year to any
4 taxpayer, shall make a complete return to the Franchise
5 Tax Board, which shall contain or be verified by a written
6 declaration that it is made under the penalties of perjury,
7 under the regulations and in the form and manner and to
8 the extent as may be prescribed by it.

9 (b) For purposes of subdivision (a), “trade or
10 business” includes the activities of nonprofit
11 organizations.

12 (c) In lieu of an information return required by
13 subdivision (a), the Franchise Tax Board may require
14 that a copy of the federal information return be filed with
15 the Franchise Tax Board.

16 (d) Every entity required to make a return under
17 subdivision (a) shall furnish to each person whose name
18 is required to be set forth in the return a written
19 statement showing both of the following:

20 (1) The name, address, and identification number of
21 the entity required to make the return.

22 (2) The aggregate amount of payments to the person
23 required to be shown on the return.

24 The written statement required under this subdivision
25 shall be furnished to the person on or before January 31
26 of the year following the calendar year for which the
27 return under subdivision (a) was required to be made.

28 (e) This section shall not apply to tips with respect to
29 which Section 13055 of the Unemployment Insurance
30 Code applies. The only records which an employer shall
31 be required to keep under this section in connection with
32 charged tips shall be charge receipts and copies of
33 statements furnished by employees under Section 13055
34 of the Unemployment Insurance Code.

35 SEC. 17. Section 18638 of the Revenue and Taxation
36 Code is amended to read:

37 18638. Every individual, partnership, limited liability
38 company, corporation, joint stock company or
39 association, insurance company, business trust, or
40 so-called Massachusetts trust, shall be required to file a

1 return for certain payments of remuneration for services
2 and furnish a written statement to the person whose
3 name is required to be set forth on the return in
4 accordance with the provisions of Section 6041A of the
5 Internal Revenue Code, except that no return or
6 statement shall be required if a statement with respect to
7 the services is required to be furnished under Division 6
8 (commencing with Section 13000) of the Unemployment
9 Insurance Code (relating to withholding tax on wages) or
10 Section 18647, and no return or statement shall be
11 required with respect to direct sales pursuant to Section
12 6041A(b) of the Internal Revenue Code.

13 SEC. 18. Section 18645 of the Revenue and Taxation
14 Code is amended to read:

15 18645. (a) The Franchise Tax Board may require a
16 copy of the federal information return to be filed with the
17 Franchise Tax Board if a federal information return was
18 required under any of the following:

19 (1) Section 6039C of the Internal Revenue Code,
20 relating to returns with respect to foreign persons holding
21 direct investments in United States real property
22 interests, if that person holds a direct investment in a
23 California real property interest as defined in Section
24 18662.

25 (2) Section 6050H of the Internal Revenue Code,
26 relating to mortgage interest received in trade or
27 business from individuals.

28 (3) Section 6050J of the Internal Revenue Code,
29 relating to foreclosures and abandonments of security.

30 (4) Section 6050K of the Internal Revenue Code,
31 relating to exchanges of certain partnership interests.

32 (5) Section 6050L of the Internal Revenue Code,
33 relating to certain dispositions of donated property.

34 (6) Section 6050N of the Internal Revenue Code,
35 relating to returns regarding payments of royalties.

36 (7) Section 6050P of the Internal Revenue Code,
37 relating to returns regarding the cancellation of
38 indebtedness by certain financial entities.

39 (b) Every person required to make a return under
40 subdivision (a) shall also furnish a statement to each

1 person whose name is required to be set forth in the
2 return, as required to do so by the Internal Revenue
3 Code.

4 (c) A transferor of a partnership interest shall be
5 required to notify the partnership of that exchange in
6 accordance with Section 6050K(c) of the Internal
7 Revenue Code.

8 (d) The Franchise Tax Board shall require a copy of
9 the federal information return to be filed with the
10 Franchise Tax Board if a federal information return was
11 required under Section 6050I of the Internal Revenue
12 Code, relating to cash received in trade or business.

13 (e) (1) The Attorney General shall, upon court order
14 following a showing ex parte to a magistrate of an
15 articulable suspicion that an individual or entity has
16 committed a felony offense to which a federal
17 information return is related, be provided a copy of a
18 federal information return filed with the Franchise Tax
19 Board under subdivision (d). The Attorney General may
20 make a return or information therefrom available to a
21 district attorney subject to regulations promulgated by
22 the Attorney General. The regulations shall require the
23 district attorney seeking the return or information to
24 specify in writing the specific reasons for believing that
25 a felony offense has been committed to which the return
26 or information is related.

27 (2) Any information or return obtained by the
28 Attorney General or a district attorney pursuant to this
29 section shall be confidential and used only for
30 investigative or prosecutorial purposes.

31 SEC. 19. Section 18662 of the Revenue and Taxation
32 Code is amended to read:

33 18662. (a) The Franchise Tax Board may, by
34 regulation, require any person, in whatever capacity
35 acting (including lessees or mortgagors of real or personal
36 property, fiduciaries, employers, and any officer or
37 department of the state or any political subdivision or
38 agency of the state, or any city organized under a
39 freeholder's charter, or any political body not a
40 subdivision or agency of the state), having the control,

1 receipt, custody, disposal, or payment of items of income
2 specified in subdivision (b), to withhold an amount,
3 determined by the Franchise Tax Board to reasonably
4 represent the amount of tax due when the items of
5 income are included with other income of the taxpayer,
6 and to transmit the amount withheld to the Franchise Tax
7 Board at the time as it may designate.

8 (b) The items of income referred to in subdivision (a)
9 are interest, dividends, rent, prizes and winnings,
10 premiums, annuities, emoluments, compensation for
11 services, including bonuses, partnership income or gains,
12 and other fixed or determinable annual or periodical
13 gains, profits, and income.

14 (c) The Franchise Tax Board may authorize the tax
15 under subdivision (a) to be deducted and withheld from
16 the interest upon any securities the owners of which are
17 not known to the withholding agent.

18 (d) Any person failing to withhold from any payments
19 any amounts required by subdivision (a) to be withheld
20 is liable for the amount withheld or the amount of taxes
21 due from the person to whom the payments are made to
22 an extent not in excess of the amounts required to be
23 withheld, whichever is greater, unless it is shown that the
24 failure to withhold is due to reasonable cause.

25 (e) (1) In the case of any disposition of a California
26 real property interest by a person (but not a partnership
27 as determined in accordance with Subchapter K of
28 Chapter 1 of Subtitle A of the Internal Revenue Code, or
29 a corporation), when the return required to be filed with
30 the Secretary of the Treasury under Section 6045(e) of
31 the Internal Revenue Code indicates, or the
32 authorization for the disbursement of the transaction's
33 funds instructs, that the funds be disbursed either to a
34 transferor with a last known street address outside the
35 boundaries of this state at the time of the transfer of the
36 title to the California real property or to the financial
37 intermediary of the transferor, the transferee shall be
38 required to withhold an amount equal to $3\frac{1}{3}$ percent of
39 the sales price of the California real property conveyed.

(2) In the case of any disposition of a California real property interest by a corporation, the transferee shall be required to withhold an amount equal to $3\frac{1}{3}$ percent of the sales price of the California real property conveyed, if the corporation immediately after the transfer of the title to the California real property has no permanent place of business in California. For purposes of this subdivision, a corporation has no permanent place of business in California if all of the following apply:

(A) It is not organized and existing under the laws of California.

(B) It does not qualify with the office of the Secretary of State to transact business in California.

(C) It does not maintain and staff a permanent office in California.

(3) Notwithstanding any other provision of this subdivision, all of the following shall apply:

(A) No transferee shall be required to withhold any amount under this subdivision if the sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000).

(B) No transferee shall be required to withhold any amount under this subdivision unless written notification of the withholding requirements of this subdivision has been provided by the real estate escrow person.

(C) No transferee shall be required to withhold under this subdivision when the transferor is a bank acting as trustee other than a trustee of a deed of trust.

(D) No transferee shall be required to withhold under this subdivision when the transferee is a corporate beneficiary under a mortgage or beneficiary under a deed of trust and the California real property is acquired in judicial or nonjudicial foreclosure or by a deed in lieu of foreclosure.

(E) No transferee shall be required to withhold any amount under this subdivision if the transferee, in good faith and based on all the information of which he or she has knowledge, relies on a written certificate executed by the transferor, certifying under penalty of perjury, any of the following:

1 (i) That the transferor is a resident of California.

2 (ii) That the California real property being conveyed
3 is the principal residence of the transferor, within the
4 meaning of Section 1034 of the Internal Revenue Code.

5 (iii) The transferor, if a corporation, has a permanent
6 place of business in California.

7 (4) (A) At the request of the transferor, the Franchise
8 Tax Board may authorize that a reduced amount or no
9 amount be withheld under this subdivision if the
10 Franchise Tax Board determines that to substitute a
11 reduced amount or no amount shall not jeopardize the
12 collection of tax imposed by Part 10 (commencing with
13 Section 17001) or Part 11 (commencing with Section
14 23001). If the transferor provides documentation
15 sufficient for the Franchise Tax Board to determine the
16 actual gain required to be recognized on the transaction,
17 the Franchise Tax Board may authorize a reduced
18 amount based on the amount of the gain, as determined,
19 which will result in a sum which is substantially
20 equivalent to the amount of tax reasonably estimated to
21 be due under Part 10 (commencing with Section 17001)
22 or Part 11 (commencing with Section 23001) from the
23 inclusion of the gain in the gross amount of the transferor.

24 (B) Within 45 days after receiving a request that a
25 reduced amount or no amount be withheld, the
26 Franchise Tax Board shall either authorize a reduced
27 amount or no amount, or deny the request.

28 (C) In the case where the parties to the transaction are
29 requesting that a reduced amount or no amount be
30 withheld and the response by the Franchise Tax Board to
31 the request has not been received at the time title to the
32 California real property is transferred, the parties may
33 direct the real estate escrow person to hold in trust for 45
34 days the amount required to be withheld under this
35 subdivision. The parties shall instruct the real estate
36 escrow person that at the end of 45 days the real estate
37 escrow person shall remit the amount withheld to the
38 Franchise Tax Board in accordance with this section,
39 unless the Franchise Tax Board has authorized that a
40 reduced amount or no amount be withheld.

(5) Amounts withheld and payments made in accordance with this subdivision shall be reported and remitted to the Franchise Tax Board in the form and at the time as the Franchise Tax Board shall determine.

(6) “California real property interest” means an interest in real property located in California and defined in Section 897(c)(1)(A)(i) of the Internal Revenue Code.

(7) For purposes of this subdivision, “financial intermediary” means an agent for the purpose of receiving and transferring funds to a principal.

(8) For purposes of this subdivision, “real estate escrow person” means any of the following persons involved in the real estate transaction:

(A) The person (including any attorney, escrow company, or title company) responsible for closing the transaction.

(B) If no other person described in subparagraph (A) is responsible for closing the transaction, then any other person who receives and disburses the consideration or value for the interest or property conveyed.

(9) (A) Unless the real estate escrow person provides “assistance,” it shall be unlawful for any real estate escrow person to charge any customer for complying with the requirements of this subdivision.

(B) For purposes of this paragraph, “assistance” includes, but is not limited to, helping the parties clarify with the Franchise Tax Board the issue of whether withholding is required under this subdivision, helping the parties request that the Franchise Tax Board authorize a reduced amount or no amount be withheld under this subdivision, or, upon request of the parties, withholding an amount under this subdivision and remitting the amount to the Franchise Tax Board.

(C) For purposes of this paragraph, “assistance” does not include providing the written notification of the withholding requirements of this subdivision, or providing the certification that either:

1 (i) The transferor is a resident of California or that the
2 California real property being conveyed is the
3 transferor's principal residence.

4 (ii) The transferor, if a corporation, has a permanent
5 place of business in California.

6 (D) In a case where the real estate escrow person
7 provides "assistance" in complying with the withholding
8 requirements of this subdivision, it shall be unlawful for
9 the real estate escrow person to charge any customer a
10 fee that exceeds forty-five dollars (\$45).

11 (10) For purposes of this subdivision, "sales price"
12 means the sum of all of the following:

13 (A) The cash paid, or to be paid. The term "cash paid,
14 or to be paid" does not include stated or unstated interest
15 or original issue discount (as determined by Sections 1271
16 to 1275, inclusive, of the Internal Revenue Code).

17 (B) The fair market value of other property
18 transferred, or to be transferred.

19 (C) The outstanding amount of any liability assumed
20 by the transferee or to which the California real property
21 interest is subject immediately before and after the
22 transfer.

23 (f) Whenever any person has withheld any amount
24 pursuant to this section, the amount so withheld shall be
25 held in trust for the State of California. The amount of the
26 fund shall be assessed, collected, and paid in the same
27 manner and subject to the same provisions and
28 limitations (including penalties) as are applicable with
29 respect to the taxes imposed by Part 10 (commencing
30 with Section 17001), Part 11 (commencing with Section
31 23001), or this part.

32 (g) Withholding shall not be required under this
33 section with respect to wages, salaries, fees, or other
34 compensation paid by a corporation for services
35 performed in California for that corporation to a
36 nonresident corporate director for director services,
37 including attendance at a board of directors' meeting.

38 (h) In the case of any payment described in
39 subdivision (g), the person making the payment shall do
40 each of the following:

1 (1) File a return with the Franchise Tax Board at the
2 time and in the form and manner specified by the
3 Franchise Tax Board.

4 (2) Provide the payee with a statement at the time and
5 in the form and manner specified by the Franchise Tax
6 Board.

7 SEC. 20. Section 18670 of the Revenue and Taxation
8 Code is amended to read:

9 18670. (a) The Franchise Tax Board may by notice,
10 served personally or by first-class mail, require any
11 employer, person, officer or department of the state,
12 political subdivision or agency of the state, including the
13 Regents of the University of California, a city organized
14 under a freeholders' charter, or a political body not a
15 subdivision or agency of the state, having in their
16 possession, or under their control, any credits or other
17 personal property or other things of value, belonging to
18 a taxpayer or to an employer or person who has failed to
19 withhold and transmit amounts due pursuant to this
20 article, to withhold, from the credits or other personal
21 property or other things of value, the amount of any tax,
22 interest, or penalties due from the taxpayer or the
23 amount of any liability incurred by that employer or
24 person for failure to withhold and transmit amounts due
25 from a taxpayer under this part and to transmit the
26 amount withheld to the Franchise Tax Board at the times
27 that it may designate. However, in the case of a
28 depository institution, as defined in Section 19(b) of the
29 Federal Reserve Act (12 U.S.C.A. Sec. 461(b)(1)(A)),
30 amounts due from a taxpayer under this part shall be
31 transmitted to the Franchise Tax Board not less than 10
32 business days from receipt of the notice. To be effective,
33 the notice shall state the amount due from the taxpayer
34 and shall be delivered or mailed to the branch or office
35 reported in information returns filed with the Franchise
36 Tax Board, or the branch or office where the credits or
37 other property is held, unless another branch or office is
38 designated by the employer, person, officer or
39 department of the state, political subdivision or agency of
40 the state, including the Regents of the University of

1 California, a city organized under a freeholders' charter
2 or a political body not a subdivision or agency of the state.

3 (b) (1) At least 45 days before sending a notice to
4 withhold to the address indicated on the information
5 return, the Franchise Tax Board shall request a
6 depository institution to do either of the following:

7 (A) Verify that the address on its information return
8 is its designated address for receiving notices to withhold.

9 (B) Provide the Franchise Tax Board with a
10 designated address for receiving notices to withhold.

11 (2) Once the depository institution has specified a
12 designated address pursuant to paragraph (1), the
13 Franchise Tax Board shall send all notices to that address
14 unless the depository institution provides notification of
15 another address. The Franchise Tax Board shall send all
16 notices to withhold to a new designated address 30 days
17 after notification.

18 (3) Failure to verify or provide a designated address
19 within 30 days of receiving the request shall be deemed
20 verification of the address on the information return as
21 the depository institution's designated address.

22 (c) Any corporation or person failing to withhold the
23 amounts due from any taxpayer and transmit them to the
24 Franchise Tax Board after service of the notice shall be
25 liable for those amounts. However, in the case of a
26 depository institution, if a notice to withhold is mailed to
27 the branch where the account is located or principal
28 banking office, the depository institution shall be liable
29 for a failure to withhold only to the extent that the
30 accounts can be identified in information normally
31 maintained at that location in the ordinary course of
32 business.

33 SEC. 21. Section 19009 of the Revenue and Taxation
34 Code is amended to read:

35 19009. (a) Whenever any person or employer who is
36 required to collect, account for, and pay over any tax—

37 (1) At the time and in the manner prescribed by law
38 or regulations (A) fails to collect, truthfully account for,
39 or pay over the tax, or (B) fails to make deposits,
40 payments, or returns of the tax, and

1 (2) Is notified, by notice delivered in hand or by
2 registered mail of any such failure, then all the
3 requirements of subdivision (b) shall be complied with.
4 In the case of a corporation, partnership, limited liability
5 company, or trust, notice to an officer, partner, manager,
6 member, or trustee, shall, for purposes of this section, be
7 deemed to be sufficient notice to the corporation,
8 partnership, limited liability company, or trust and to all
9 officers, partners, managers, members, trustees, and
10 employees thereof.

11 (b) Any person or employer who is required to collect,
12 account for, and pay over any tax imposed by Part 10
13 (commencing with Section 17001) or Part 11
14 (commencing with Section 23001), if notice has been
15 delivered to that person or employer in accordance with
16 subdivision (a), shall collect the taxes, which become
17 collectible after delivery of the notice, shall (not later
18 than the end of the second banking day after any amount
19 of the taxes is collected) deposit that amount in a separate
20 account in a bank located within the limits of this state,
21 and shall keep the amount of those taxes in that account
22 until payment over to the Franchise Tax Board. Any such
23 account shall be designated as a special fund in trust for
24 the Franchise Tax Board, payable to the Franchise Tax
25 Board by that person or employer as trustee.

26 (c) Whenever the Franchise Tax Board is satisfied,
27 with respect to any notification made under subdivision
28 (a), that all requirements of law and regulations with
29 respect to the taxes, will henceforth be complied with, it
30 may cancel the notification. The cancellation shall take
31 effect at the time as is specified in the notice of the
32 cancellation.

33 SEC. 22. Section 19011 of the Revenue and Taxation
34 Code is amended to read:

35 19011. (a) All payments required under this part,
36 regardless of the income (or taxable) year to which the
37 payments apply shall be remitted to the Franchise Tax
38 Board by electronic funds transfer pursuant to Division 11
39 (commencing with Section 11101) of the Commercial
40 Code, once any of the following conditions are met:

1 (1) With respect to any corporation, any installment
2 payment of estimated tax made pursuant to Section 19025
3 or the payment made pursuant to Section 18604 with
4 regard to an extension of time to file exceeds fifty
5 thousand dollars (\$50,000) in any income year beginning
6 on or after January 1, 1991, or exceeds twenty thousand
7 dollars (\$20,000) in any income year beginning on or after
8 January 1, 1995.

9 (2) With respect to any corporation, the total tax
10 liability exceeds two hundred thousand dollars (\$200,000)
11 in any income year beginning on or after January 1, 1991,
12 or exceeds eighty thousand dollars (\$80,000) in any
13 income year beginning on or after January 1, 1995. For
14 purposes of this section, total tax liability shall be the total
15 tax liability as shown on the original return, after any
16 adjustment made pursuant to Section 19051.

17 (3) A partnership or taxpayer (for purposes of this
18 section, "taxpayer") submits a request to the Franchise
19 Tax Board and is granted permission to make electronic
20 funds transfers.

21 (b) A taxpayer required to remit payments to the
22 Franchise Tax Board by electronic funds transfer may
23 elect to discontinue making payments where the
24 threshold requirements set forth in paragraphs (1) and
25 (2) of subdivision (a) were not met for the preceding
26 income (or taxable) year. The election shall be made in
27 a form and manner prescribed by the Franchise Tax
28 Board.

29 (c) Any taxpayer required to remit payment by
30 electronic funds transfer pursuant to this section who
31 makes payment by other means shall pay a penalty of 10
32 percent of the amount paid, unless it is shown that the
33 failure to make payment as required was for reasonable
34 cause and was not the result of willful neglect.

35 (d) Any taxpayer required to remit payments by
36 electronic funds transfer pursuant to this section may
37 request a waiver of those requirements from the
38 Franchise Tax Board. The Franchise Tax Board may grant
39 a waiver only if it determines that the particular amounts
40 paid in excess of the threshold amounts established in this

1 section were not representative of the taxpayer's tax
2 liability. If a taxpayer is granted a waiver, subsequent
3 remittances by electronic funds transfer shall be required
4 only on those terms set forth in the waiver.

5 (e) The Franchise Tax Board shall accept remittances
6 by electronic funds transfer pursuant to this section no
7 later than January 1, 1993. Electronic funds transfer
8 procedures, in addition to those described in subdivision
9 (f), shall be as prescribed by the Franchise Tax Board.
10 Payment is deemed complete on the date the electronic
11 funds transfer is initiated, if settlement to the state's
12 demand account occurs on or before the banking day
13 following the date the transfer is initiated. If settlement
14 to the state's demand account does not occur on or before
15 the banking day following the date the transfer is
16 initiated, payment is deemed to occur on the date
17 settlement occurs.

18 (f) For purposes of this section:

19 (1) "Electronic funds transfer" means any transfer of
20 funds, other than a transaction originated by check, draft,
21 or similar paper instrument, that is initiated through an
22 electronic terminal, telephonic instrument, or computer
23 or magnetic tape, so as to order, instruct, or authorize a
24 financial institution to debit or credit an account.
25 Electronic funds transfer shall be accomplished by an
26 automated clearinghouse debit, automated
27 clearinghouse credit, a Federal Reserve Wire Transfer
28 (Fedwire), or by an international funds transfer.

29 (2) "Automated clearinghouse" means any federal
30 reserve bank, or an organization established by
31 agreement with the National Automated Clearing House
32 Association, that operates as a clearinghouse for
33 transmitting or receiving entries between banks or bank
34 accounts and that authorizes an electronic transfer of
35 funds between those banks or bank accounts.

36 (3) "Automated clearinghouse debit" means a
37 transaction in which any department of the state, through
38 its designated depository bank, originates an automated
39 clearinghouse transaction debiting the taxpayer's bank
40 account and crediting the state's bank account for the

1 amount of tax. Banking costs incurred for the automated
2 clearinghouse debit transaction by the taxpayer shall be
3 paid by the state.

4 (4) “Automated clearinghouse credit” means an
5 automated clearinghouse transaction in which the
6 taxpayer, through its own bank, originates an entry
7 crediting the state’s bank account and debiting its own
8 bank account. Banking costs incurred by the state for the
9 automated clearinghouse credit transaction may be
10 charged to the taxpayer.

11 (5) “Fedwire” means any transaction originated by
12 the taxpayer and utilizing the national electronic
13 payment system to transfer funds through federal reserve
14 banks, pursuant to which the taxpayer debits its own bank
15 account and credits the state’s bank account. Electronic
16 funds transfers may be made by Fedwire only if prior
17 approval is obtained from the Franchise Tax Board and
18 the taxpayer is unable, for reasonable cause, to make
19 payments pursuant to paragraph (3) or (4). Banking costs
20 charged to the taxpayer and to the state may be charged
21 to the taxpayer.

22 (6) “International funds transfer” means any
23 transaction originated by the taxpayer and utilizing the
24 international electronic payment system to transfer
25 funds, pursuant to which the taxpayer debits its own bank
26 account and credits the state’s bank account.

27 (7) In determining whether a payment or total tax
28 liability exceeds the amounts established in subdivision
29 (a), the income of all taxpayers whose income derived
30 from, or attributable to, sources within this state is
31 required to be determined by a combined report shall be
32 aggregated and the total aggregate amount shall be
33 considered to be the income of a single taxpayer for
34 purposes of determining the payment or total tax liability
35 of a single taxpayer.

36 SEC. 23. Section 19021 of the Revenue and Taxation
37 Code is amended to read:

38 19021. In the case of taxpayers subject to the tax
39 imposed by Article 3 (commencing with Section 23181)
40 of Chapter 2 of Part 11, there shall be due and payable on

1 or before the 15th day of the third month following the
2 close of the preceding year from each taxpayer a
3 percentage of its net income as disclosed by its return
4 which is equal to the rate applicable to corporations
5 subject to the tax imposed by Article 2 (commencing with
6 Section 23151) of Chapter 2 of Part 11 plus the personal
7 property tax rate equivalent included in the bank and
8 financial corporation tax rate determination by the
9 Franchise Tax Board pursuant to Sections 23186 and
10 23186.1. The payment required by this section shall not be
11 less than the minimum tax specified in Section 23153.

12 SEC. 24. Section 19023 of the Revenue and Taxation
13 Code is amended to read:

14 19023. For purposes of this article, in the case of a
15 corporation, other than a bank or financial corporation,
16 the term “estimated tax” means the amount which the
17 corporation estimates as the amount of the tax imposed
18 by Part 11 (commencing with Section 23001); but in no
19 event shall the estimated tax of a corporation subject to
20 the tax imposed by Article 2 (commencing with Section
21 23151) of Chapter 2 of Part 11 be less than the minimum
22 tax prescribed in Section 23153.

23 SEC. 25. Section 19024 of the Revenue and Taxation
24 Code is amended to read:

25 19024. (a) In the case of banks and financial
26 corporations, “estimated tax” means the amount which
27 the bank or financial corporation estimates as the amount
28 of the tax imposed by Part 11 (commencing with Section
29 23001) at the rate determined by the Franchise Tax Board
30 for the preceding year pursuant to Section 23186.1, but in
31 no event shall the estimated tax of a bank or financial
32 corporation be less than the minimum tax prescribed in
33 Section 23153.

34 (b) In case of an increase or decrease in the rate of tax
35 imposed under Section 23151 (tax on general
36 corporations), a bank or financial corporation shall be
37 required to increase or decrease the rate determined by
38 the Franchise Tax Board for the preceding year by the
39 same amount as the change in the rate imposed under



1 Section 23151 determined in accordance with Section
2 24251 (relating to computation of tax when law changed).

3 SEC. 26. Section 19058 of the Revenue and Taxation
4 Code is amended to read:

5 19058. (a) If the taxpayer omits from gross income an
6 amount properly includable therein which is in excess of
7 25 percent of the amount of gross income stated in the
8 return, a notice of a proposed deficiency assessment may
9 be mailed to the taxpayer within six years after the return
10 was filed. Additionally, in the case of a corporation, a
11 proceeding in court for the collection of the tax may be
12 commenced without assessment at any time within six
13 years after the return was filed.

14 (b) For purposes of this section both of the following
15 shall apply:

16 (1) In the case of a trade or business, the term “gross
17 income” means the total of the amounts received or
18 accrued from the sale of goods or services (if the amounts
19 are required to be shown on the return) prior to
20 diminution by the cost of the sales or service.

21 (2) In determining the amount omitted from gross
22 income, there shall not be taken into account any amount
23 which is omitted from gross income stated in the return
24 if the amount is disclosed in the return, or in a statement
25 attached to the return, in a manner adequate to apprise
26 the Franchise Tax Board of the nature and amount of the
27 item.

28 SEC. 27. Section 19132.5 of the Revenue and Taxation
29 Code is amended to read:

30 19132.5. (a) In the case of a qualified taxpayer, no
31 penalty shall be assessed under Section 19132 if the return
32 is filed timely (not later than the extended due date
33 granted under Section 18567 or 18604) and the tax
34 required to be paid on or before the due date of the
35 return, without regard to extension, is paid within the
36 following time:

37 (1) In the case of an individual, partnership, or
38 fiduciary, within six months of the original due date of the
39 return.

1 (2) In the case of a corporation, within seven months
2 of the original due date of the return.

3 (b) Any penalty imposed under Section 19132 shall be
4 assessed from the original due date of the return if the
5 taxpayer fails to pay the tax within the time specified in
6 this section.

7 (c) This section shall apply to payment of the amount
8 shown as tax on the original returns required to be filed
9 during calendar year 1994.

10 (d) For purposes of this section, “qualified taxpayer”
11 means any corporation, fiduciary, partnership, or
12 individual taxpayer to whom one of the following applies
13 as a result of the Northridge earthquake of January 1994,
14 any related aftershock, or any related casualty:

15 (1) The qualified taxpayer sustained any significant
16 property loss.

17 (2) The qualified taxpayer suffered a loss of
18 employment due to property damage suffered by his or
19 her employer.

20 (3) The qualified taxpayer realized significant loss of
21 business income from a business located within the
22 Northridge earthquake area.

23 SEC. 28. Section 19141.5 of the Revenue and Taxation
24 Code is amended to read:

25 19141.5. (a) (1) Section 6038A of the Internal
26 Revenue Code, relating to information with respect to
27 certain foreign-owned corporations, shall apply.

28 (2) A penalty shall be imposed under this part for
29 failure to furnish information or maintain records and
30 that penalty shall be determined in accordance with
31 Section 6038A of the Internal Revenue Code.

32 (3) Section 11314 of Public Law 101-508, relating to
33 application of amendments made by Section 7403 of the
34 Revenue Reconciliation Act of 1989 to taxable years
35 beginning on or before July 10, 1989, shall apply.

36 (4) Section 6038A(e) of the Internal Revenue Code,
37 relating to enforcement of requests for certain records, is
38 modified as follows:

1 (A) Each reference to Section 7602, 7603, or 7604 of the
2 Internal Revenue Code shall instead refer to Section
3 19504.

4 (B) Each reference to “summons” shall instead refer
5 to “subpoena duces tecum.”

6 (C) Section 6038A(e)(4)(C) of the Internal Revenue
7 Code shall refer to “superior courts of the State of
8 California for the Counties of Los Angeles, Sacramento,
9 and San Diego, and for the City and County of San
10 Francisco,” instead of “United States district court for the
11 district in which the person (to whom the summons is
12 issued) resides or is found.”

13 (b) In the case of a corporation, each of the following
14 shall apply:

15 (1) Section 6038B of the Internal Revenue Code,
16 relating to notice of certain transfers to foreign persons,
17 shall apply.

18 (2) A penalty shall be imposed under this part for
19 failure to furnish information or maintain records and
20 that penalty shall be determined in accordance with
21 Section 6038B of the Internal Revenue Code.

22 (c) (1) Section 6038C of the Internal Revenue Code,
23 relating to information with respect to foreign
24 corporations engaged in United States business, shall
25 apply.

26 (2) A penalty shall be imposed under this part for
27 failure to furnish information or maintain records and
28 that penalty shall be determined in accordance with
29 Section 6038C of the Internal Revenue Code.

30 (3) Section 6038C(d) of the Internal Revenue Code,
31 relating to enforcement of requests for certain records, is
32 modified as follows:

33 (A) Each reference to Section 7602, 7603, or 7604 of the
34 Internal Revenue Code shall instead refer to Section
35 19504.

36 (B) Each reference to “summons” shall instead refer
37 to “subpoena duces tecum.”

38 (d) For purposes of this part, the information required
39 to be filed with the Franchise Tax Board pursuant to this

1 section shall be a copy of the information filed with the
2 Internal Revenue Service.

3 (e) For purposes of this section, each of the following
4 shall apply:

5 (1) Section 7701(a)(4) of the Internal Revenue Code,
6 relating to the term “domestic,” shall apply.

7 (2) Section 7701(a)(5) of the Internal Revenue Code,
8 relating to the term “foreign,” shall apply.

9 (3) Section 7701(a)(30) of the Internal Revenue Code,
10 relating to the term “United States person,” shall apply.
11 However, the term “United States person” shall not
12 include any corporation that is not subject to the tax
13 imposed under Chapter 2 (commencing with Section
14 23101), Chapter 2.5 (commencing with Section 23400), or
15 Chapter 3 (commencing with Section 23501), of Part 11.

16 SEC. 29. Section 19141.6 of the Revenue and Taxation
17 Code is amended to read:

18 19141.6. (a) Each taxpayer determining its income
19 subject to tax pursuant to Section 25101 or electing to file
20 pursuant to Section 25110 shall, for income years
21 beginning on or after January 1, 1994, maintain (in the
22 location, in the manner, and to the extent prescribed in
23 regulations which shall be promulgated by the Franchise
24 Tax Board on or before December 31, 1995) and make
25 available upon request all of the following:

26 (1) Any records as may be appropriate to determine
27 the correct treatment of the components that are a part
28 of one or more unitary businesses for purposes of
29 determining the income derived from or attributable to
30 this state pursuant to Section 25101 or 25110.

31 (2) Any records as may be appropriate to determine
32 the correct treatment of amounts that are attributable to
33 the classification of an item as business or nonbusiness
34 income for purposes of Article 2 (commencing with
35 Section 25120) of Chapter 17 of Part 11.

36 (3) Any records as may be appropriate to determine
37 the correct treatment of the apportionment factors for
38 purposes of Article 2 (commencing with Section 25120)
39 of Chapter 17 of Part 11.

(4) Documents and information, including any questionnaires completed and submitted to the Internal Revenue Service that are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Section 882 or Subpart F of Part III of Subchapter N, or similar sections, of the Internal Revenue Code.

(b) For purposes of this section:

(1) Information for any year shall be retained for that period of time in which the taxpayers' income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed, not to exceed eight years from the due date or extended due date of the return, or during which a protest is pending before the Franchise Tax Board, or an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(2) "Related party" means corporations that are related because one owns or controls directly or indirectly more than 50 percent of the stock of the other or because more than 50 percent of the voting stock of each is owned or controlled, directly or indirectly, by the same interests.

(3) "Records" includes any books, papers, or other data.

(c) (1) If a corporation subject to this section fails to maintain or fails to cause another to maintain records as required by subdivision (a), that corporation shall pay a penalty of ten thousand dollars (\$10,000) for each income year with respect to which the failure occurs.

(2) If any failure described in paragraph (1) continues for more than 90 days after the day on which the Franchise Tax Board mails notice of the failure to the corporation, that corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of ten thousand dollars (\$10,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The additional

1 penalty imposed by this subdivision shall not exceed a
2 maximum of fifty thousand dollars (\$50,000) if the failure
3 to maintain or the failure to cause another to maintain is
4 not willful. This maximum shall apply with respect to
5 income years beginning on or after January 1, 1994, and
6 before the earlier of the first day of the month following
7 the month in which regulations are adopted pursuant to
8 this section or December 31, 1995.

9 (3) For purposes of this section, the time prescribed by
10 regulations to maintain records (and the beginning of the
11 90-day period after notice by the Franchise Tax Board)
12 shall be treated as not earlier than the last day on which
13 (as shown to the satisfaction of the Franchise Tax Board)
14 reasonable cause existed for failure to maintain the
15 records.

16 (d) (1) The Franchise Tax Board may apply the rules
17 of paragraph (2) whether or not the board begins a
18 proceeding to enforce a subpoena, or subpoena duces
19 tecum, if subparagraphs (A), (B), and (C) apply:

20 (A) For purposes of determining the correct
21 treatment under Part 11 (commencing with Section
22 23001) of the items described in subdivision (a), the
23 Franchise Tax Board issues a subpoena or subpoena duces
24 tecum to a corporation to produce (either directly or as
25 agent for the related party) any records or testimony.

26 (B) The subpoena or subpoena duces tecum is not
27 quashed in a proceeding begun under paragraph (3) and
28 is not determined to be invalid in a proceeding begun
29 under Section 19504 to enforce the subpoena or subpoena
30 duces tecum.

31 (C) The corporation does not substantially comply in
32 a timely manner with the subpoena or subpoena duces
33 tecum and the Franchise Tax Board has sent by certified
34 or registered mail a notice to that corporation that it has
35 not substantially complied.

36 (D) If the corporation fails to maintain or fails to cause
37 another to maintain records as required by subdivision
38 (a), and by reason of that failure, the subpoena, or
39 subpoena duces tecum, is quashed in a proceeding
40 described in subparagraph (B) or the corporation is not

1 able to provide the records requested in the subpoena or
2 subpoena duces tecum, the Franchise Tax Board may
3 apply the rules of paragraph (2) to any of the items
4 described in subdivision (a) to which the records relate.

5 (2) (A) All of the following shall be determined by the
6 Franchise Tax Board in the Franchise Tax Board's sole
7 discretion from the Franchise Tax Board's own
8 knowledge or from information the Franchise Tax Board
9 may obtain through testimony or otherwise:

10 (i) The components that are a part of one or more
11 unitary businesses for purposes of determining the
12 income derived from or attributable to this state pursuant
13 to Section 25101 or 25110.

14 (ii) Amounts that are attributable to the classification
15 of an item as business or nonbusiness income for purposes
16 of Article 2 (commencing with Section 25120) of Chapter
17 17 of Part 11.

18 (iii) The apportionment factors for purposes of Article
19 2 (commencing with Section 25120) of Chapter 17 of Part
20 11.

21 (iv) The correct amount of income under Section 882
22 of, or Subpart F of Part III of, Subchapter N of, or similar
23 sections of, the Internal Revenue Code.

24 (B) This paragraph shall apply to determine the
25 correct treatment of the items described in subdivision
26 (a) unless the corporation is authorized by its related
27 parties (in the manner and at the time as the Franchise
28 Tax Board shall prescribe) to act as the related parties'
29 limited agent solely for purposes of applying Section
30 19504 with respect to any request by the Franchise Tax
31 Board to examine records or produce testimony related
32 to any item described in subdivision (a) or with respect
33 to any subpoena or subpoena duces tecum for the records
34 or testimony. The appearance of persons or the
35 production of records by reason of the corporation being
36 an agent shall not subject those persons or records to legal
37 process for any purpose other than determining the
38 correct treatment under Part 11 of the items described in
39 subdivision (a).

1 (C) Determinations made in the sole discretion of the
2 Franchise Tax Board pursuant to this paragraph may be
3 appealed to the State Board of Equalization, in the
4 manner and at a time, as provided by Section 19045 or
5 19324, or may be the subject of an action to recover tax,
6 in the manner and at a time, as provided by Section 19382.
7 The review of determinations by the board or the court
8 shall be limited to whether the determinations were
9 arbitrary or capricious, or are not supported by
10 substantial evidence.

11 (3) (A) Notwithstanding any other law or rule of law,
12 any reporting corporation to which the Franchise Tax
13 Board issues a subpoena or subpoena duces tecum
14 referred to in subparagraph (A) of paragraph (1) shall
15 have the right to begin a proceeding to quash the
16 subpoena or subpoena duces tecum not later than the
17 90th day after the subpoena or subpoena duces tecum was
18 issued. In that proceeding, the Franchise Tax Board may
19 seek to compel compliance with the subpoena or
20 subpoena duces tecum.

21 (B) Notwithstanding any other law or rule of law, any
22 reporting corporation that has been notified by the
23 Franchise Tax Board that it has determined that the
24 corporation has not substantially complied with a
25 subpoena or subpoena duces tecum referred to in
26 paragraph (1) shall have the right to begin a proceeding
27 to review the determination not later than the 90th day
28 after the day on which the notice referred to in
29 subparagraph (C) of paragraph (1) was mailed. If the
30 proceeding is not begun on or before the 90th day, the
31 determination by the Franchise Tax Board shall be
32 binding and shall not be reviewed by any court.

33 (C) The superior courts of the State of California for
34 the Counties of Los Angeles, Sacramento, and San Diego,
35 and for the City and County of San Francisco shall have
36 jurisdiction to hear any proceeding brought under
37 subparagraphs (A) and (B). Any order or other
38 determination in the proceeding shall be treated as a final
39 order that may be appealed.

1 (D) If any corporation takes any action as provided in
2 subparagraphs (A) and (B), the running of any period of
3 limitations under Sections 19057 to 19064, inclusive
4 (relating to the assessment and collection of tax), or
5 under Section 19704 (relating to criminal prosecutions)
6 with respect to that corporation shall be suspended for
7 the period during which the proceedings, and appeals
8 therein, are pending. In no event shall any period expire
9 before the 90th day after the day on which there is a final
10 determination in the proceeding.

11 SEC. 30. Section 19147 of the Revenue and Taxation
12 Code is amended to read:

13 19147. (a) Notwithstanding Sections 19142 to 19145,
14 inclusive, the addition to the tax with respect to any
15 underpayment of any installment shall not be imposed if
16 the total amount of all payments of estimated tax paid on
17 or before the last date prescribed for the payment of the
18 installment equals or exceeds the amount which would
19 have been required to be paid on or before that date if the
20 estimated tax were whichever of the following is the
21 lesser:

22 (1) (A) The tax shown on the return of the taxpayer
23 for the preceding income year if a return showing a
24 liability for tax was filed by the taxpayer for the preceding
25 year and that preceding year was a year of 12 months. The
26 tax shown on the return, in the case of the tax imposed by
27 Article 3 (commencing with Section 23181) of Chapter 2
28 of Part 11, means the amount of tax shown on the return
29 for the income year as prescribed in Section 19021.

30 (B) In the case of a large corporation, subparagraph
31 (A) shall not apply, except as provided in clauses (i) and
32 (ii).

33 (i) Subparagraph (A) shall apply for purposes of
34 determining the amount of the first required installment
35 for any income year.

36 (ii) Any reduction in the first required installment by
37 reason of clause (i) shall be recaptured by increasing the
38 amount of the next required installment by the amount
39 of that reduction.

(2) (A) An amount equal to the applicable percentage specified in Section 19144 of the tax for the income year computed by placing on an annualized basis the taxable income:

(i) For the first three months of the income year, in the case of the installment required to be paid in the fourth month.

(ii) For the first three months of the income year, in the case of the installment required to be paid in the sixth month.

(iii) For the first six months of the income year in the case of the installment required to be paid in the ninth month.

(iv) For the first nine months of the income year, in the case of the installment required to be paid in the 12th month of the taxable year.

(B) (i) If the taxpayer makes an election under this clause, each of the following shall apply:

(I) Clause (i) of subparagraph (A) shall be applied by substituting “two months” for “three months.”

(II) Clause (ii) of subparagraph (A) shall be applied by substituting “four months” for “three months.”

(III) Clause (iii) of subparagraph (A) shall be applied by substituting “seven months” for “six months.”

(IV) Clause (iv) of subparagraph (A) shall be applied by substituting “ten months” for “nine months.”

(ii) If the taxpayer makes an election under this clause, each of the following shall apply:

(I) Clause (ii) of subparagraph (A) shall be applied by substituting “five months” for “three months.”

(II) Clause (iii) of subparagraph (A) shall be applied by substituting “eight months” for “six months.”

(III) Clause (iv) of subparagraph (A) shall be applied by substituting “eleven months” for the “nine months.”

(iii) An election under clause (i) or (ii) shall apply to the income year for which the election is made and shall be effective only if the election is made on or before the date required for the payment of the first required installment for that income year.

(iv) This subparagraph shall apply to income years beginning on or after January 1, 1997.

(C) For purposes of this paragraph, the taxable income shall be placed on an annualized basis in the following manner:

(i) Multiply by 12 the taxable income referred to in subparagraph (A).

(ii) Divide the resulting amount by the number of months in the income year referred to in subparagraph (A).

“Taxable income” as used in this paragraph means “net income” includable in the measure of tax or “alternative minimum taxable income” (as defined by Section 23455).

(D) In the case of any corporation which is subject to the tax imposed under Section 23731, any reference to taxable income shall be treated as including a reference to unrelated business taxable income and, except in the case of an election under subparagraph (B), each of the following shall apply:

(i) Clause (i) of subparagraph (A) shall be applied by substituting “two months” for “three months.”

(ii) Clause (ii) of subparagraph (A) shall be applied by substituting “four months” for “three months.”

(iii) Clause (iii) of subparagraph (A) shall be applied by substituting “seven months” for “six months.”

(iv) Clause (iv) of subparagraph (A) shall be applied by substituting “ten months” for “nine months.”

(3) The applicable percentage specified in Section 19144 or more of the tax for the income year was paid by withholding of tax pursuant to Section 18662.

(4) The applicable percentage specified in Section 19144 or more of the net income for the income year consists of items from which an amount was withheld pursuant to Section 18662 and the amount of the first installment, including payments applied pursuant to subdivision (c) of Section 19025, equals at least the minimum franchise tax specified in Section 23153.

(b) (1) For purposes of this section, “large corporation” means any corporation if that corporation (or any predecessor corporation) had taxable income

1 (computed without regard to net operating loss
2 deductions) of one million dollars (\$1,000,000) or more
3 for any income year during the testing period.

4 (2) For purposes of this subdivision, “testing period”
5 means the three income years immediately preceding
6 the income year involved.

7 SEC. 31. Section 19164 of the Revenue and Taxation
8 Code is amended to read:

9 19164. (a) (1) An accuracy-related penalty shall be
10 imposed under this part and shall be determined in
11 accordance with the provisions of Section 6662 of the
12 Internal Revenue Code, relating to imposition of
13 accuracy-related penalty.

14 (2) With respect to corporations, this subdivision shall
15 apply to all of the following:

16 (A) All income years beginning on or after January 1,
17 1990.

18 (B) Any other income year for which an assessment is
19 made after July 16, 1991.

20 (b) A fraud penalty shall be imposed under this part
21 and shall be determined in accordance with the
22 provisions of Section 6663 of the Internal Revenue Code,
23 relating to imposition of fraud penalty.

24 (c) The provisions of Section 6664 of the Internal
25 Revenue Code, relating to definitions and special rules,
26 shall apply.

27 (d) The provisions of Section 6665 of the Internal
28 Revenue Code, relating to applicable rules, shall apply.

29 SEC. 32. Section 19192 of the Revenue and Taxation
30 Code is amended to read:

31 19192. For purposes of this article:

32 (a) (1) “Qualified business entity” means an entity
33 that is all of the following:

34 (A) An entity that is a corporation, as defined in
35 Section 23038.

36 (B) A business entity, including any predecessors to
37 the business entity, that previously has never filed a
38 return with the Franchise Tax Board pursuant to this
39 part, Part 10 (commencing with Section 17001), or Part
40 11 (commencing with Section 23011).

1 (C) A business entity, including any predecessors to
2 the business entity, that previously has not been the
3 subject of an inquiry by the Franchise Tax Board with
4 respect to liability for any of the taxes imposed under Part
5 10 (commencing with Section 17001) or Part 11
6 (commencing with Section 23001).

7 (D) A business entity that voluntarily comes forward
8 prior to any unilateral contact from the Franchise Tax
9 Board, makes application for a voluntary disclosure
10 agreement in a form and manner prescribed by the
11 Franchise Tax Board, and makes a full and accurate
12 statement of its activities in this state for the six
13 immediately preceding taxable or income years.

14 (2) (A) Notwithstanding paragraph (1), a qualified
15 business entity does not include any of the following:

16 (i) A business entity that is organized and existing
17 under the laws of this state.

18 (ii) A business entity that is qualified or registered
19 with the office of the Secretary of State.

20 (iii) A business entity that maintains and staffs a
21 permanent facility in this state.

22 (B) For purposes of this paragraph, the storing of
23 materials, goods, or products in a public warehouse
24 pursuant to a public warehouse contract does not
25 constitute maintaining a permanent facility in this state.

26 (3) “Qualified shareholder” means an individual that
27 is all of the following:

28 (A) A nonresident on the signing date of the voluntary
29 disclosure agreement.

30 (B) A shareholder of an S corporation (defined in
31 Section 23800) that has applied for a voluntary disclosure
32 agreement under this article under which all material
33 facts pertinent to the shareholder’s liability would be
34 disclosed on that S corporation’s voluntary disclosure
35 agreement as required under clause (i) of subparagraph
36 (A) of paragraph (2) of subdivision (d) of Section 19191.

37 (4) Notwithstanding paragraph (3), subparagraph
38 (B) of paragraph (1) of subdivision (d) of Section 19191
39 shall not apply to any of the six taxable years immediately
40 preceding the signing date that the qualified shareholder

1 was a California resident required to file a California tax
2 return, nor to any penalties or additions to tax
3 attributable to income other than the California source
4 income from the S corporation that filed an application
5 under this article.

6 (b) “Signing date” of the voluntary disclosure
7 agreement means the date on which a person duly
8 authorized by the Franchise Tax Board signs the
9 agreement.

10 (c) The amendments to this section made by the act
11 adding this subdivision shall apply to taxable or income
12 years beginning on or after January 1, 1997.

13 SEC. 33. Section 19254 of the Revenue and Taxation
14 Code is amended to read:

15 19254. (a) (1) If any person, other than an
16 organization exempt from taxation under Section 23701,
17 fails to pay any amount of tax, penalty, addition to tax,
18 interest, or other liability imposed and delinquent under
19 Part 10 (commencing with Section 17001), Part 11
20 (commencing with Section 23001), or this part, a
21 collection cost recovery fee shall be imposed if the
22 Franchise Tax Board has mailed notice to that person for
23 payment that advises that continued failure to pay the
24 amount due may result in collection action, including the
25 imposition of a collection cost recovery fee. The
26 collection cost recovery fee shall be in the amount of:

27 (A) In the case of an individual, partnership, limited
28 liability company classified as a partnership for California
29 income tax purposes, or fiduciary, eighty-eight dollars
30 (\$88) or an amount as adjusted under subdivision (b).

31 (B) In the case of a corporation or limited liability
32 company classified as a corporation for California income
33 tax purposes, one hundred sixty-six dollars (\$166) or an
34 amount as adjusted under subdivision (b).

35 (2) If any person, other than an organization exempt
36 from taxation under Section 23701, fails or refuses to make
37 and file a tax return required by Part 10 (commencing
38 with Section 17001), Part 11 (commencing with Section
39 23001), or this part, within 25 days after formal legal
40 demand to file the tax return is mailed to that person by

1 the Franchise Tax Board, the Franchise Tax Board shall
2 impose a filing enforcement cost recovery fee in the
3 amount of:

4 (A) In the case of an individual, partnership, limited
5 liability company classified as a partnership for California
6 income tax purposes, or fiduciary, fifty-one dollars (\$51)
7 or an amount as adjusted under subdivision (b).

8 (B) In the case of a corporation or limited liability
9 company classified as a corporation for California income
10 tax purposes, one hundred nineteen dollars (\$119) or an
11 amount as adjusted under subdivision (b).

12 (b) For fees imposed under this section during the
13 fiscal year 1993–94 and fiscal years thereafter, the amount
14 of those fees shall be set to reflect actual costs and shall be
15 specified in the annual Budget Act.

16 (c) Interest shall not accrue with respect to the cost
17 recovery fees provided by this section.

18 (d) The amounts provided by this section are
19 obligations imposed by this part and may be collected in
20 any manner provided under this part for the collection of
21 a tax.

22 (e) Subdivision (a) is operative with respect to the
23 notices for payment or formal legal demands to file,
24 either of which is mailed on or after September 15, 1992.

25 (f) The Franchise Tax Board shall determine the total
26 amount of the cost recovery fees collected or accrued
27 through June 30, 1993, and shall notify the Controller of
28 that amount. The Controller shall transfer that amount to
29 the Franchise Tax Board, and that amount is hereby
30 appropriated to the board for the 1992–93 fiscal year for
31 reimbursement of its collection and filing enforcement
32 efforts.

33 SEC. 34. Section 19263 of the Revenue and Taxation
34 Code is amended to read:

35 19263. At any sale authorized by Section 19262, the
36 property shall be sold by the Franchise Tax Board or its
37 duly authorized agent in accordance with law and the
38 notice of sale, and the Franchise Tax Board shall deliver
39 to the purchaser a bill of sale for the property so sold and
40 the bill of sale shall vest title in the purchaser. The unsold

1 portion of any property so seized may be left at the place
2 of sale at the risk of the taxpayer. If, upon any sale, the
3 moneys so received exceed the amount of all taxes,
4 interest, penalties and costs due the state from the
5 taxpayer, any excess shall be returned to the taxpayer and
6 a receipt therefor obtained. However, if any person
7 having an interest in or lien upon the property has filed
8 with the Franchise Tax Board prior to any sale notice of
9 the interest or lien, the Franchise Tax Board shall
10 withhold any excess pending a determination of the
11 rights of the respective parties thereto by a court of
12 competent jurisdiction.

13 If, for any reason, the receipt of the taxpayer is not
14 available, the Franchise Tax Board shall deposit the
15 excess moneys with the Treasurer, as trustee for the
16 owner, subject to the order of the taxpayer or his or her
17 trust or estate, or in the case of a corporation, its successor
18 through reorganization, merger, or consolidation, or its
19 stockholders upon dissolution.

20 SEC. 35. The heading of Article 6 (commencing with
21 Section 19280) of Chapter 5 of Part 10.2 of Division 2 of
22 the Revenue and Taxation Code is amended and
23 renumbered to read:

24

25 Article 5.5. Collection of Amounts Imposed by a Court

26

27 SEC. 36. Section 19280 of the Revenue and Taxation
28 Code is amended to read:

29 19280. (a) (1) Fines, state or local penalties,
30 forfeitures, restitution fines, restitution orders, or any
31 other amounts imposed by a superior, municipal, or
32 justice court of the State of California upon a person or
33 any other entity that is due and payable in an amount
34 totaling no less than two hundred fifty dollars (\$250), in
35 the aggregate, for criminal offenses, including all offenses
36 involving a violation of the Vehicle Code except offenses
37 relating to parking or registration or offenses by
38 pedestrians or bicyclists, may, no sooner than 90 days after
39 payment of that amount becomes delinquent, be referred
40 by the county or the state to the Franchise Tax Board for



1 collection under guidelines prescribed by the Franchise
2 Tax Board.

3 (2) For purposes of this subdivision:

4 (A) The amounts referred by the county or state
5 under this section may include any amounts that a
6 government entity may add to the court imposed
7 obligation as a result of the underlying offense, trial, or
8 conviction. For purposes of this article, those amounts
9 shall be deemed to be imposed by the court.

10 (B) Restitution orders may be referred to the
11 Franchise Tax Board only by a government entity, as
12 agreed upon by the Franchise Tax Board, provided that
13 all of the following apply:

14 (i) The government entity has the authority to collect
15 on behalf of the state or the victim.

16 (ii) The government entity shall be responsible for
17 distributing the restitution order collections, as
18 appropriate.

19 (iii) The government entity shall ensure, in making
20 the referrals and distributions, that it coordinates with
21 any other related collection activities that may occur by
22 counties or other state agencies.

23 (iv) The government entity shall ensure compliance
24 with laws relating to the reimbursement of the State
25 Restitution Fund.

26 (C) The Franchise Tax Board shall establish criteria
27 for referral, which shall include setting forth a minimum
28 dollar amount subject to referral and collection.

29 (b) For the period January 1, 1995, to December 31,
30 1997, inclusive, for purposes of a manageable
31 implementation and evaluation of the program
32 authorized by this article, the Franchise Tax Board may
33 limit referrals to nine counties.

34 (c) Upon written notice to the obligor from the
35 Franchise Tax Board, any amount referred to the
36 Franchise Tax Board under subdivision (a) and any
37 interest thereon, including any interest on the amount
38 referred under subdivision (a) that accrued prior to the
39 date of referral, shall be treated as final and due and
40 payable to the State of California, and shall be collected

1 from the obligor by the Franchise Tax Board in any
2 manner authorized under the law for collection of a
3 delinquent personal income tax liability, including, but
4 not limited to, issuance of an order and levy under Article
5 4 (commencing with Section 706.070) of Chapter 5 of
6 Division 2 of Title 9 of Part 2 of the Code of Civil
7 Procedure in the manner provided for earnings
8 withholding orders for taxes.

9 (d) (1) Part 10 (commencing with Section 18401),
10 this part, Part 10.7 (commencing with Section 21001), and
11 Part 11 (commencing with Section 23001) shall apply to
12 amounts referred under this article in the same manner
13 and with the same force and effect and to the full extent
14 as if the language of those laws had been incorporated in
15 full into this article, except to the extent that any
16 provision is either inconsistent with this article or is not
17 relevant to this article.

18 (2) Any information, information sources, or
19 enforcement remedies and capabilities available to the
20 court or the state referring the amount due described in
21 subdivision (a), shall be available to the Franchise Tax
22 Board to be used in conjunction with, or independent of,
23 the information, information sources, or remedies and
24 capabilities available to the Franchise Tax Board for
25 purposes of administering Part 10 (commencing with
26 Section 18401), this part, Part 10.7 (commencing with
27 Section 21001), or Part 11 (commencing with Section
28 23001).

29 (e) The activities required to implement and
30 administer this part shall not interfere with the primary
31 mission of the Franchise Tax Board to administer Part 10
32 (commencing with Section 17001) and Part 11
33 (commencing with Section 23001).

34 (f) For amounts referred for collection under
35 subdivision (a), interest shall accrue at the greater of the
36 rate applicable to the amount due being collected or the
37 rate provided under Section 19521. When notice of the
38 amount due includes interest and is mailed to the obligor
39 and the amount is paid within 10 days after the date of



1 notice, interest shall not be imposed for the period after
2 the date of notice.

3 (g) In no event shall a collection under this article be
4 construed as a payment of income taxes imposed under
5 Part 10 (commencing with Section 17001) or Part 11
6 (commencing with Section 23001).

7 SEC. 37. Section 19282 of the Revenue and Taxation
8 Code is amended to read:

9 19282. (a) Except as otherwise provided in
10 subdivision (e), amounts collected under this article shall
11 be transmitted to the Treasurer and deposited in the
12 State Treasury to the credit of the Court Collection
13 Account in the General Fund, which is hereby created.
14 Amounts deposited in the Court Collection Account shall,
15 less an amount that is equal to the costs incurred by the
16 Franchise Tax Board in administering the program
17 authorized by this article, be transferred by the
18 Controller either to the county or to the state fund to
19 which the amount due was originally owing or as
20 otherwise directed by contractual agreement. If the
21 amount collected is not sufficient to satisfy the amounts
22 referred for collection pursuant to Section 19280 that are
23 to be paid by an offender, then the amount paid shall be
24 allocated for distribution on a pro rata basis, as defined in
25 subdivision (d). The amount that is equal to the costs
26 incurred by the Franchise Tax Board in administering the
27 program authorized by this article shall be transferred by
28 the Controller to the General Fund for the purpose of
29 recovering the amount expended by the Franchise Tax
30 Board from General Fund appropriations for the purpose
31 of implementing and administering the program
32 authorized by this article, and related statutes as added or
33 amended by the act adding this article.

34 (b) It is the intent of the Legislature that costs to the
35 Franchise Tax Board to administer this article for the
36 1995–96 and 1996–97 fiscal years not exceed 9 percent of
37 the amount it collects pursuant to this article. It is also the
38 intent of the Legislature that for the 1997–98 fiscal year
39 and thereafter this percentage decrease to 5 percent. If
40 the Franchise Tax Board projects that its costs will exceed

1 these percentages for a given fiscal year, it shall report to
2 the Legislature and the Department of Finance the
3 reasons for the excess costs and the consequences of not
4 funding these excess costs.

5 (c) Notwithstanding Section 13340 of the Government
6 Code, all moneys deposited in the Court Collection
7 Account pursuant to this section are hereby continuously
8 appropriated, without regard to fiscal years, for purposes
9 of making distributions pursuant to subdivision (a).

10 (d) For purposes of this section, “pro rata basis” means
11 a distribution determined as follows: the sum of the
12 amounts referred for collection pursuant to Section 19280
13 to be paid by an offender shall be allocated and
14 distributed in the same proportion that each of the
15 elements has to the sum.

16 (e) For amounts collected pursuant to a restitution
17 fine or restitution order, subdivision (a) is modified to
18 require the deposit and disbursement of funds collected
19 under this article to be in accordance with the laws
20 relating to reimbursement of the State Restitution Fund.

21 SEC. 38. Section 19301 of the Revenue and Taxation
22 Code is amended to read:

23 19301. (a) If the Franchise Tax Board or the board, as
24 the case may be, finds that there has been an
25 overpayment of any liability imposed under Part 10
26 (commencing with Section 17001), Part 11 (commencing
27 with Section 23001), or this part by a taxpayer for any year
28 for any reason, the amount of the overpayment may be
29 credited against any amount then due from the taxpayer
30 and the balance shall be refunded to the taxpayer.

31 (b) In the case of a joint return filed under Section
32 18521, the amount of the overpayment may be credited
33 against the amount then due from both taxpayers and the
34 balance shall be refunded to both taxpayers in the names
35 under which the return was paid.

36 (c) In the case of a corporation, the balance shall be
37 refunded to the taxpayer or its successor through
38 reorganization, merger, or consolidation, or to its
39 shareholders upon dissolution.

1 SEC. 39. Section 19340 of the Revenue and Taxation
2 Code is amended to read:

3 19340. Interest shall be allowed and paid on any
4 overpayment in respect of any tax, at the adjusted annual
5 rate established pursuant to Section 19521 as follows:

6 (a) In the case of a credit, from the date of the
7 overpayment to the due date of the amount for which the
8 credit is allowed. Any interest allowed on any credit shall
9 first be credited on any amounts due from the taxpayer
10 under Part 10 (commencing with Section 17001), this
11 part, or Part 11 (commencing with Section 23001).

12 (b) In the case of a refund, including a refund in excess
13 of tax liability as prescribed in subdivision (j) of Section
14 17053.5, from the date of the overpayment to a date
15 preceding the date of the refund warrant by not more
16 than 30 days, the date to be determined by the Franchise
17 Tax Board.

18 SEC. 40. Section 19392 of the Revenue and Taxation
19 Code is amended to read:

20 19392. If judgment is rendered against the Franchise
21 Tax Board, the amount thereof shall first be credited
22 against any taxes and interest due from the taxpayer and
23 the remainder refunded to the taxpayer or his or her trust
24 or estate, or in the case of a corporation, its successor
25 through reorganization, merger, or consolidation, or its
26 stockholders upon dissolution, by the Treasurer on
27 warrants drawn by the Controller.

28 SEC. 41. Section 19411 of the Revenue and Taxation
29 Code is amended to read:

30 19411. The Franchise Tax Board may recover any
31 refund or credit or any portion thereof which is
32 erroneously made or allowed, together with interest at
33 the adjusted annual rate established pursuant to Section
34 19521 from the date demand for recovery was made, in an
35 action brought in a court of competent jurisdiction in the
36 County of Sacramento in the name of the people of the
37 State of California within whichever of the following
38 period expires the later:

39 (a) Two years after the refund or credit was made.

1 (b) During the period within which the Franchise Tax
2 Board may mail a notice of proposed additional
3 assessment.

4 (c) In the case of a corporation, interest shall be
5 computed from the date the refund was made or the
6 credit allowed, instead of the date a demand for recovery
7 was made.

8 SEC. 42. Section 19532 of the Revenue and Taxation
9 Code is amended and renumbered to read:

10 19533. In the event the debtor has more than one debt
11 being collected by the Franchise Tax Board and the
12 amount collected by the Franchise Tax Board is
13 insufficient to satisfy the total amount owing, the amount
14 collected shall be applied in the following priority:

15 (a) Payment of any taxes, additions to tax, penalties,
16 interest, fees, or other amounts due and payable under
17 Part 10 (commencing with Section 17001), Part 11
18 (commencing with Section 23001), or this part.

19 (b) Payment of any debts referred for collection under
20 Article 5 (commencing with Section 19271) of Chapter 5.

21 (c) Payment of delinquent wages collected pursuant
22 to the Labor Code.

23 (d) Payment of delinquencies collected under Section
24 10878.

25 (e) Payment of any amounts due that are referred for
26 collection under Article 5.5 (commencing with Section
27 19280) of Chapter 5.

28 (f) Payment of any amounts that are referred for
29 collection pursuant to Section 62.9 of the Labor Code.

30 (g) Payment of delinquent penalties collected for the
31 Department of Industrial Relations pursuant to the Labor
32 Code.

33 (h) Payment of delinquent fees collected for the
34 Department of Industrial Relations pursuant to the Labor
35 Code.

36 (i) Payment of delinquencies referred by the Student
37 Aid Commission pursuant to Section 16583.5 of the
38 Government Code.

39 SEC. 43. Section 19542 of the Revenue and Taxation
40 Code is amended to read:

1 19542. Except as otherwise provided in this article
2 and as required to administer subdivision (b) of Section
3 19005, it is a misdemeanor for the Franchise Tax Board or
4 any member thereof, or any deputy, agent, clerk, or other
5 officer or employee of the state (including its political
6 subdivisions), or any former officer or employee or other
7 individual, who in the course of his or her employment or
8 duty has or had access to returns, reports, or documents
9 required to be filed under this part, to disclose or make
10 known in any manner information as to the amount of
11 income or any particulars (including the business affairs
12 of a corporation) set forth or disclosed therein.

13 SEC. 44. Section 19563 of the Revenue and Taxation
14 Code is amended to read:

15 19563. This article does not prohibit the publication of
16 statistics, so classified as to prevent the identification of
17 particular reports or returns and the items thereof, or the
18 publication of the percentage of dividends paid by any
19 corporation that is deductible by the recipient under Part
20 11 (commencing with Section 23001).

21 SEC. 45. Section 19701 of the Revenue and Taxation
22 Code is amended to read:

23 19701. Any person who does any of the following is
24 liable for a penalty of not more than five thousand dollars
25 (\$5,000):

26 (a) With or without intent to evade any requirement
27 of Part 10 (commencing with Section 17001), Part 11
28 (commencing with Section 23001), or this part or any
29 lawful requirement of the Franchise Tax Board, fails to
30 file any return or to supply any information required, or
31 who, with or without that intent, makes, renders, signs, or
32 verifies any false or fraudulent return or statement, or
33 supplies any false or fraudulent information.

34 (b) Aids, abets, advises, encourages, or counsels any
35 person to evade the tax imposed by Part 10 (commencing
36 with Section 17001) or Part 11 (commencing with Section
37 23001) by not filing any return or supplying any
38 information required under Part 10 (commencing with
39 Section 17001), Part 11 (commencing with Section
40 23001), or this part, or, by making, rendering, signing, or

1 verifying any false or fraudulent return or statement, or
2 by supplying false or fraudulent information.

3 (c) Under this part, is required to pay any estimated
4 tax or tax, who willfully fails to pay that estimated tax or
5 tax, at the time or times required by law or regulations.

6 The penalty shall be recovered in the name of the
7 people in any court of competent jurisdiction. Counsel for
8 the Franchise Tax Board may, upon request of the district
9 attorney or other prosecuting attorney, assist the
10 prosecuting attorney in presenting the law or facts to
11 recover the penalty at the trial of a criminal proceeding
12 for violation of this section.

13 That person is also guilty of a misdemeanor and shall
14 upon conviction be fined not to exceed five thousand
15 dollars (\$5,000) or be imprisoned not to exceed one year,
16 or both, at the discretion of the court, together with costs
17 of investigation and prosecution.

18 (d) For purposes of subdivision (a), the president of a
19 corporation, or the chief operating officer, is the person
20 presumed to be responsible for filing any return or
21 supplying information required from that corporation.

22 SEC. 46. Section 19705 of the Revenue and Taxation
23 Code is amended to read:

24 19705. (a) Any person who does any of the following
25 shall be guilty of a felony and, upon conviction, shall be
26 fined not more than fifty thousand dollars (\$50,000) or
27 imprisoned not more than three years, or both, together
28 with the costs of investigation and prosecution:

29 (1) Willfully makes and subscribes any return,
30 statement, or other document, that contains or is verified
31 by a written declaration that it is made under penalty of
32 perjury, and he or she does not believe to be true and
33 correct as to every material matter.

34 (2) Willfully aids or assists in, or procures, counsels, or
35 advises the preparation or presentation under, or in
36 connection with any matter arising under, the Personal
37 Income Tax Law or the Bank and Corporation Tax Law,
38 of a return, affidavit, claim, or other document, that is
39 fraudulent or is false as to any material matter, whether
40 or not that falsity or fraud is with the knowledge or

1 consent of the person authorized or required to present
2 that return, affidavit, claim, or document.

3 (3) Simulates or falsely or fraudulently executes or
4 signs any bond, permit, entry, or other document
5 required by the provisions of the Personal Income Tax
6 Law or the Bank and Corporation Tax Law, or by any
7 regulation pursuant to that law, or procures the same to
8 be falsely or fraudulently executed or advises, aids in, or
9 connives at that execution.

10 (4) Removes, deposits, or conceals, or is concerned in
11 removing, depositing, or concealing, any goods or
12 commodities for or in respect whereof any tax is or shall
13 be imposed, or any property upon which levy is
14 authorized by Chapter 5 (commencing with Section
15 19201); or Chapter 8 (commencing with Section 688.010)
16 of Division 1 of, and Chapter 5 (commencing with Section
17 706.010) of Division 2 of, Title 9 of the Code of Civil
18 Procedure, with intent to evade or defeat the assessment
19 or collection of any tax, additions to tax, penalty, or
20 interest imposed by Part 10 (commencing with Section
21 17001), Part 11 (commencing with Section 23001), or this
22 part.

23 (5) In connection with any settlement under Section
24 19442, or offer of that settlement, or in connection with
25 any closing agreement under Section 19441 or offer to
26 enter into that agreement, willfully does any of the
27 following:

28 (A) Conceals from any officer or employee of this state
29 any property belonging to the estate of a taxpayer or
30 other person liable in respect of the tax.

31 (B) Receives, withholds, destroys, mutilates, or
32 falsifies any book, document, or record, or makes any false
33 statement, relating to the estate or financial condition of
34 the taxpayer or other person liable in respect of the tax.

35 (b) In the case of a corporation, the fifty thousand
36 dollars (\$50,000) limitation specified in subdivision (a)
37 shall be increased to two hundred thousand dollars
38 (\$200,000).

39 (c) The fact that an individual's name is signed to a
40 return, statement, or other document filed, including a

1 return, statement, or other document filed using
2 electronic technology pursuant to Section 18621.5, shall
3 be prima facie evidence for all purposes that the return,
4 statement, or other document was actually signed by him
5 or her.

6 (d) For purposes of this section “person” means the
7 taxpayer, any member of the taxpayer’s family, any
8 corporation, agent, fiduciary, or representative of, or any
9 other individual or entity acting on behalf of, the
10 taxpayer, or any other corporation or entity owned or
11 controlled by the taxpayer, directly or indirectly, or
12 which owns or controls the taxpayer, directly or
13 indirectly.

14 SEC. 47. Section 19706 of the Revenue and Taxation
15 Code is amended to read:

16 19706. Any person or any officer or employee of any
17 corporation who, within the time required by or under
18 the provisions of this part, willfully fails to file any return
19 or to supply any information with intent to evade any tax
20 imposed by Part 10 (commencing with Section 17001) or
21 Part 11 (commencing with Section 23001), or who,
22 willfully and with like intent, makes, renders, signs, or
23 verifies any false or fraudulent return or statement or
24 supplies any false or fraudulent information, is punishable
25 by imprisonment in the county jail not to exceed one year,
26 or in the state prison, or by fine of not more than twenty
27 thousand dollars (\$20,000), or by both the fine and
28 imprisonment, at the discretion of the court, together
29 with the costs of investigation and prosecution.

30 SEC. 48. Section 19719 of the Revenue and Taxation
31 Code is amended to read:

32 19719. Any person who attempts or purports to
33 exercise the powers, rights, and privileges of a
34 corporation that has been suspended pursuant to Section
35 23301 or who transacts or attempts to transact intrastate
36 business in this state on behalf of a foreign corporation,
37 the rights and privileges of which have been forfeited
38 pursuant to the section, is punishable by a fine of not less
39 than two hundred fifty dollars (\$250) and not exceeding

1 one thousand dollars (\$1,000), or by imprisonment not
2 exceeding one year, or both fine and imprisonment.

3 SEC. 49. Section 23037 of the Revenue and Taxation
4 Code is amended to read:

5 23037. “Taxpayer” means any person subject to the
6 tax imposed under Chapter 2 (commencing with Section
7 23101), Chapter 2.5 (commencing with Section 23400), or
8 Chapter 3 (commencing with Section 23501), of this part.

9 SEC. 50. Section 23038 of the Revenue and Taxation
10 Code is amended to read:

11 23038. (a) “Corporation” includes every corporation
12 except corporations expressly exempt from the tax by this
13 part or the Constitution of this state.

14 (b) (1) For the purposes of the tax imposed under
15 Chapter 3 (commencing with Section 23501) ,
16 “corporation” also includes associations (including
17 nonprofit associations that perform services, borrow
18 money or own property), other than banking
19 associations, and Massachusetts or business trusts. For the
20 purposes of this part, a Massachusetts or business trust
21 includes every business organization consisting
22 essentially of an arrangement whereby property is
23 conveyed to one, or more than one, trustee for purposes
24 other than the mere conservation of assets, collecting and
25 disbursing of fixed or periodic income, or the securing of
26 an obligation.

27 (2) In addition to the above, for purposes of the tax
28 imposed under Chapter 2 (commencing with Section
29 23101) for the purpose of exercising its franchise within
30 this state, “corporation” also includes any limited liability
31 company that is classified as an association for California
32 tax purposes.

33 (3) “Corporation” includes any “corporation”
34 operated by any receiver, liquidator, referee, trustee or
35 other officers or agents appointed by any court, or an
36 assignee for the benefit of creditors.

37 “Corporation” includes any professional corporation
38 incorporated pursuant to Part 4 (commencing with
39 Section 13400) of Division 3 of Title 1 of the Corporations
40 Code.

1 (4) Notwithstanding the above, “corporation” also
2 includes a trust organized and operated exclusively for
3 purposes contained in Section 23701d.

4 SEC. 51. Section 23040.1 of the Revenue and Taxation
5 Code is amended to read:

6 23040.1. (a) Notwithstanding Sections 23040 and
7 25101, income derived from or attributable to sources
8 within this state shall not include the distributive share of
9 interest, dividends, and gains from the sale or exchange
10 of qualifying investment securities derived by a
11 corporation that is a partner in a partnership that qualifies
12 as an investment partnership under Section 17955,
13 whether or not the partnership has a usual place of
14 business in this state, if the income from the partnership
15 is the corporation’s only income derived from or
16 attributable to sources within this state.

17 (b) Subdivision (a) shall not apply to a corporation
18 that participates in the management of the investment
19 activities of the investment partnership or that is engaged
20 in a unitary business with another corporation or
21 partnership that participates in the management of the
22 investment activities of the partnership or has income
23 derived from or attributable to sources within this state
24 other than income described in subdivision (a).

25 (c) For purposes of this section:

26 (1) “Investment partnership” means a partnership
27 that meets both of the following requirements:

28 (A) No less than 90 percent of the partnership’s cost of
29 its total assets consist of qualifying investment securities,
30 deposits at banks or other financial institutions, and office
31 space and equipment reasonably necessary to carry on its
32 activities as an investment partnership.

33 (B) No less than 90 percent of its gross income consists
34 of interest, dividends, and gains from the sale or exchange
35 of qualifying investment securities.

36 (2) (A) “Qualifying investment securities” include all
37 of the following:

38 (i) Common stock, including preferred or debt
39 securities convertible into common stock, and preferred
40 stock.

1 (ii) Bonds, debentures, and other debt securities.

2 (iii) Foreign and domestic currency deposits or
3 equivalents and securities convertible into foreign
4 securities.

5 (iv) Mortgage- or asset-backed securities secured by
6 federal, state, or local governmental agencies.

7 (v) Repurchase agreements and loan participations.

8 (vi) Foreign currency exchange contracts and
9 forward and futures contracts on foreign currencies.

10 (vii) Stock and bond index securities and futures
11 contracts, and other similar financial securities and
12 futures contracts on those securities.

13 (viii) Options for the purchase or sale of any of the
14 securities, currencies, contracts, or financial instruments
15 described in clauses (i) to (vii), inclusive.

16 (ix) Regulated futures contracts.

17 (B) “Qualifying investment securities” does not
18 include an interest in a partnership unless that
19 partnership is itself an investment partnership.

20 SEC. 52. Section 23095 of the Revenue and Taxation
21 Code is amended to read:

22 23095. No decree of dissolution, withdrawal, or
23 cancellation shall be made and entered by any court, nor
24 shall the county clerk of any county or the Secretary of
25 State file any decree, withdrawal, or cancellation or any
26 other document by which the term of existence of the
27 limited liability company shall be reduced or terminated,
28 nor shall the Secretary of State file any certificate of the
29 surrender or cancellation by a foreign limited liability
30 company of its rights to do intrastate business in this state
31 unless the limited liability company obtains from the
32 Franchise Tax Board and files from the court, county
33 clerk, or Secretary of State as the case may be, a tax
34 clearance certificate indicating that the Franchise Tax
35 Board is satisfied from the available evidence that all taxes
36 and fees imposed by this chapter have been paid or are
37 secured by bond, deposit, or otherwise. Within 30 days
38 after receiving a request for a certificate, the Franchise
39 Tax Board shall either issue the certificate or notify the
40 person requesting the certificate of the amount of tax or

1 fees that must be paid or the amount of bond, deposit, or
2 other security that must be furnished as a condition of
3 issuing the certificate. The issuance of the certificate shall
4 not relieve the taxpayer or any individual or corporation
5 from liability for any taxes, fees, penalties, or interest
6 imposed by this code. The Franchise Tax Board shall
7 furnish a copy of the tax clearance certificate to the
8 Secretary of State.

9 SEC. 53. Section 23098 of the Revenue and Taxation
10 Code is amended to read:

11 23098. No decree of dissolution, withdrawal, or
12 cancellation shall be made and entered by any court, nor
13 shall the county clerk of any county or the Secretary of
14 State file any any decree of dissolution, withdrawal, or
15 cancellation or any other document by which the term of
16 existence of the registered limited liability partnership
17 shall be reduced or terminated, nor shall the Secretary of
18 State file any amended registration or notice by a foreign
19 limited liability partnership that its rights to do intrastate
20 business in this state have ceased or of its dissolution and
21 winding up, unless the registered limited liability
22 partnership or foreign limited liability partnership
23 obtains from the Franchise Tax Board and files with the
24 court, county clerk, or Secretary of State, as the case may
25 be, a tax clearance certificate indicating that the
26 Franchise Tax Board is satisfied from the available
27 evidence that all taxes imposed by this chapter have been
28 paid or are secured by bond, deposit, or otherwise. Within
29 30 days after receiving a request for a certificate, the
30 Franchise Tax Board shall either issue the certificate or
31 notify the person requesting the certificate of the amount
32 of tax or fees that must be paid or the amount of bond,
33 deposit, or other security that must be furnished as a
34 condition of issuing the certificate. The issuance of the
35 certificate shall not relieve the taxpayer or any individual
36 or corporation from liability for any taxes, fees, penalties,
37 or interest imposed by this code. The Franchise Tax
38 Board shall furnish a copy of the tax clearance certificate
39 to the Secretary of State.



1 SEC. 54. Section 23114 is added to the Revenue and
2 Taxation Code, to read:

3 23114. A corporation shall not be subject to the taxes
4 imposed by this chapter if the corporation did no business
5 in this state during the income year and the income year
6 was 15 days or less.

7 SEC. 55. Section 23151 of the Revenue and Taxation
8 Code is amended to read:

9 23151. (a) With the exception of banks and financial
10 corporations, every corporation doing business within the
11 limits of this state and not expressly exempted from
12 taxation by the provisions of the Constitution of this state
13 or by this part, shall annually pay to the state, for the
14 privilege of exercising its corporate franchises within this
15 state, a tax according to or measured by its net income, to
16 be computed at the rate of 7.6 percent upon the basis of
17 its net income for the next preceding income year, or if
18 greater, the minimum tax specified in Section 23153.

19 (b) For calendar or fiscal years ending after June 30,
20 1973, the rate of tax shall be 9 percent instead of 7.6
21 percent as provided by subdivision (a).

22 (c) For calendar or fiscal years ending in 1980 to 1986,
23 inclusive, the rate of tax shall be 9.6 percent.

24 (d) For calendar or fiscal years ending in 1987 to 1996,
25 inclusive, and for any income year beginning before
26 January 1, 1997, the tax rate shall be 9.3 percent.

27 (e) For any income year beginning on or after January
28 1, 1997, the tax rate shall be 8.84 percent. The change in
29 rate provided in this subdivision shall be made without
30 proration otherwise required by Section 24251.

31 SEC. 56. Section 23151.1 of the Revenue and Taxation
32 Code is amended to read:

33 23151.1. Notwithstanding Section 23151, every
34 corporation (except banks and financial corporations)
35 doing business within the limits of this state and not
36 exempted from taxation by the provisions of the
37 Constitution of this state or by this part, shall annually pay
38 to the state for the privilege of exercising its corporate
39 franchises within this state, a tax determined as follows:

1 (a) With respect to corporations, other than those
2 described in subdivision (b), which commence doing
3 business within the state after December 31, 1971, the tax
4 for the taxable year of commencement, whether or not
5 for 12 full months, shall be the minimum franchise tax
6 prescribed in Section 23153.

7 (b) If after December 31, 1972, a corporation
8 commences to do business and ceases doing business in
9 the same taxable year, the tax for that taxable year shall
10 be according to or measured by its net income for that
11 year, to be computed at the rate prescribed in Section
12 23151.

13 (c) With respect to taxable years beginning after
14 December 31, 1972, other than the year of
15 commencement described in subdivision (a) or (b) or
16 the year of cessation described in subdivision (d), the tax
17 for that taxable year shall be according to or measured
18 by its net income for the next preceding income year, to
19 be computed at the rate prescribed in Section 23151.

20 (d) With respect to corporations which cease doing
21 business in a taxable year beginning after December 31,
22 1972, other than those described in subdivision (b), the
23 tax for the taxable year of cessation shall be:

24 (1) According to or measured by its net income for the
25 next preceding income year, to be computed at the rate
26 prescribed in Section 23151, plus

27 (2) According to or measured by its net income for the
28 income year during which the corporation ceased doing
29 business, to be computed at the rate prescribed in Section
30 23151.

31 (e) In any event, the tax for any taxable year shall not
32 be less than the minimum tax provided for in Section
33 23153 for that taxable year.

34 SEC. 57. Section 23151.2 of the Revenue and Taxation
35 Code is amended to read:

36 23151.2. Notwithstanding Section 23151, every
37 corporation (except banks and financial corporations)
38 not exempted from taxation by the provisions of the
39 Constitution of this state or by this part which dissolves or
40 withdraws, shall pay a tax for its taxable year of dissolution

1 or withdrawal according to or measured by its net income
2 for the income year in which it ceased doing business,
3 unless that income has previously been included in the
4 measure of tax for any taxable year, to be computed at the
5 rate prescribed in Section 23151 for its taxable year of
6 dissolution or withdrawal. In any event, the tax for the
7 taxable year of its dissolution or withdrawal shall not be
8 less than the minimum tax provided for in Section 23153
9 for that taxable year.

10 SEC. 58. Section 23153 of the Revenue and Taxation
11 Code is amended to read:

12 23153. (a) Every corporation described in
13 subdivision (b) shall be subject to the minimum franchise
14 tax specified in subdivision (d) from the earlier of the
15 date of incorporation, qualification, or commencing to do
16 business within this state, until the effective date of
17 dissolution or withdrawal as provided in Section 23331 or,
18 if later, the date the corporation ceases to do business
19 within the limits of this state.

20 (b) Unless expressly exempted by this part or the
21 California Constitution, subdivision (a) shall apply to
22 each of the following:

23 (1) Every corporation that is incorporated under the
24 laws of this state.

25 (2) Every corporation that is qualified to transact
26 intrastate business in this state pursuant to Chapter 21
27 (commencing with Section 2100) of Division 1 of Title 1
28 of the Corporations Code.

29 (3) Every corporation that is doing business in this
30 state.

31 (c) The following entities are not subject to the
32 minimum franchise tax specified in this section:

33 (1) Credit unions.

34 (2) Nonprofit cooperative associations organized
35 pursuant to Chapter 1 (commencing with Section 54001)
36 of Division 20 of the Food and Agricultural Code that
37 have been issued the certificate of the board of
38 supervisors prepared pursuant to Section 54042 of the
39 Food and Agricultural Code. The association shall be
40 exempt from the minimum franchise tax for five

1 consecutive income years, commencing with the first
2 income year for which the certificate is issued pursuant
3 to subdivision (b) of Section 54042 of the Food and
4 Agricultural Code. This paragraph only applies to
5 nonprofit cooperative associations organized on or after
6 January 1, 1994.

7 (d) (1) Except as provided in paragraph (2),
8 corporations subject to the minimum franchise tax shall
9 pay annually to the state a minimum franchise tax of eight
10 hundred dollars (\$800).

11 (2) The minimum franchise tax shall be twenty-five
12 dollars (\$25) for each of the following:

13 (A) A corporation formed under the laws of this state
14 whose principal business when formed was gold mining,
15 which is inactive and has not done business within the
16 limits of the state since 1950.

17 (B) A corporation formed under the laws of this state
18 whose principal business when formed was quicksilver
19 mining, which is inactive and has not done business
20 within the limits of the state since 1971, or has been
21 inactive for a period of 24 consecutive months or more.

22 (3) For purposes of paragraph (2), a corporation shall
23 not be considered to have done business if it engages in
24 other than mining.

25 (e) Notwithstanding subdivision (a), a domestic
26 corporation, as defined in Section 167 of the Corporations
27 Code, that files a certificate of dissolution in the office of
28 the Secretary of State pursuant to subdivision (c) of
29 Section 1905 of the Corporations Code and that does not
30 thereafter do business shall not be subject to the
31 minimum franchise tax for income years beginning on or
32 after the date of that filing.

33 (f) The minimum franchise tax imposed by paragraph
34 (1) of subdivision (d) shall not be increased by the
35 Legislature by more than 10 percent during any calendar
36 year.

37 SEC. 59. Section 23183.1 of the Revenue and Taxation
38 Code is amended to read:

39 23183.1. Notwithstanding Section 23183, every
40 financial corporation doing business within the limits of

1 this state and not exempted from taxation by the
2 Constitution of this state or by this part, shall annually pay
3 to the state for the privilege of exercising its corporate
4 franchises within this state, a tax determined as follows:

5 (a) If a financial corporation commences to do
6 business and ceases doing business in the same taxable
7 year, the tax for that taxable year shall be according to or
8 measured by its net income for that year, at the rate
9 provided under Section 23186.

10 (b) With respect to taxable years other than the year
11 of commencement described in subdivision (a) or the
12 year of cessation described in subdivision (c), a tax
13 according to or measured by its net income, to be
14 computed at the rate prescribed in Section 23186 upon
15 the basis of its net income for the next preceding income
16 year.

17 (c) With respect to financial corporations, which cease
18 doing business in a taxable year other than those
19 described in subdivision (a), the tax for the taxable year
20 of cessation shall be:

21 (1) According to or measured by its net income for the
22 next preceding income year to be computed at the rate
23 prescribed in Section 23186, plus

24 (2) According to or measured by its net income for the
25 income year during which the financial corporation
26 ceased doing business, to be computed at the rate
27 prescribed in Section 23186.

28 SEC. 60. Section 23183.2 of the Revenue and Taxation
29 Code is amended to read:

30 23183.2. Notwithstanding Section 23183, every
31 financial corporation not exempted from taxation by the
32 provisions of the Constitution of this state or by this part
33 which dissolves or withdraws, shall pay a tax for its taxable
34 year of dissolution or withdrawal according to or
35 measured by its net income for the income year in which
36 it ceased doing business, to be computed at the rate
37 prescribed in Section 23186 for its taxable year of
38 dissolution or withdrawal, unless the income has
39 previously been included in the measure of tax for any
40 taxable year.

1 SEC. 61. Section 23184 of the Revenue and Taxation
2 Code is repealed.

3 SEC. 62. Section 23184.5 of the Revenue and Taxation
4 Code is repealed.

5 SEC. 63. Section 23185 of the Revenue and Taxation
6 Code is repealed.

7 SEC. 64. Section 23185a of the Revenue and Taxation
8 Code is repealed.

9 SEC. 65. Section 23185b of the Revenue and Taxation
10 Code is repealed.

11 SEC. 66. Section 23186 of the Revenue and Taxation
12 Code is amended to read:

13 23186. For income years ending on or after December
14 31, 1995, the rate of tax on banks and financial
15 corporations shall be the rate of tax specified in Section
16 23151, plus 2 percent.

17 SEC. 67. Section 23186.1 of the Revenue and Taxation
18 Code is repealed.

19 SEC. 68. Section 23186.2 of the Revenue and Taxation
20 Code is repealed.

21 SEC. 69. Section 23186.5 of the Revenue and Taxation
22 Code is repealed.

23 SEC. 70. Section 23221 of the Revenue and Taxation
24 Code is amended to read:

25 23221. (a) Except as provided under subdivision (b),
26 a corporation which incorporates under the laws of this
27 state or qualifies to transact intrastate business in this
28 state shall thereupon prepay the minimum tax provided
29 in Section 23153, except that any credit union shall
30 thereupon prepay a tax of twenty-five dollars (\$25). The
31 prepayment shall be made to the Secretary of State with
32 the filing of the articles of incorporation or the statement
33 and designation by foreign corporation. The Secretary of
34 State shall transmit the amount of the prepayment to the
35 Franchise Tax Board. The Franchise Tax Board shall
36 certify to the Secretary of State on an individual or class
37 basis those domestic or foreign corporations which are
38 exempt from prepayment or for which prepayment to
39 the Secretary of State is waived.



(b) For income years commencing on or after January 1, 1997, the amount payable by a qualified new corporation under subdivision (a) shall be six hundred dollars (\$600).

(c) For purposes of this section, “qualified new corporation” means a corporation that reasonably estimates that, for the income year, it will have both gross receipts, less returns and allowances reportable to this state, of one million dollars (\$1,000,000) or less and a tax liability under Section 23151 that does not exceed eight hundred dollars (\$800).

(1) The determination of gross receipts of a corporation, for purposes of this section, shall be made by including the gross receipts of each member of the commonly controlled group, as defined in Section 25105, of which the bank or corporation is a member.

(2) “Gross receipts, less returns and allowances reportable to this state” means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(d) Subdivision (b) shall not apply to any corporation if 50 percent or more of its stock is, or will be upon the initial issuance of stock, owned by another corporation.

(e) For income years commencing on or after January 1, 1997, if a corporation paid six hundred dollars (\$600) under subdivision (b), but for its first income year the corporation’s tax liability under Section 23151 exceeds eight hundred dollars (\$800), or the corporation’s gross receipts, as determined under paragraph (2) of subdivision (c), exceed one million dollars (\$1,000,000), an additional tax in the amount equal to two hundred dollars (\$200) shall be due and payable by the corporation on the due date of its return, without regard to extension, for its first income year.

SEC. 71. Section 23303 of the Revenue and Taxation Code is amended to read:

23303. Notwithstanding the provisions of Section 23301 or 23301.5, any corporation that transacts business

1 or receives income within the period of its suspension or
2 forfeiture shall be subject to tax under the provisions of
3 this chapter.

4 SEC. 72. Section 23305.2 of the Revenue and Taxation
5 Code is amended to read:

6 23305.2. Notwithstanding Sections 23305 and 23305.1
7 that require a taxpayer to pay any liability to the
8 Franchise Tax Board as a condition to revivor or relief
9 from voidability, the Franchise Tax Board shall issue a
10 certificate of revivor under Section 23305, or of relief
11 from voidability under Section 23305.1, if the taxpayer
12 provides the Franchise Tax Board with an assumption of
13 liability, or a bond, deposit, or other security for
14 taxpayer's liability, that is acceptable to the Franchise Tax
15 Board. The Franchise Tax Board shall notify the person
16 filing the application for revivor or relief from voidability
17 of the amount of the bond, deposit, or other security, or
18 of the terms of an assumption of liability, that must be
19 furnished as a condition of the revivor or the relief from
20 voidability. Obtaining revivor or voidability relief by
21 securing the debt pursuant to this section shall not
22 constitute an admission of liability by the taxpayer, nor
23 relieve the taxpayer or any individual or corporation from
24 liability for any taxes, additions to tax, penalties, or
25 interest imposed by this part. A taxpayer that provides an
26 assumption of liability or a bond, deposit, or other security
27 to obtain revivor or relief from voidability may,
28 notwithstanding Section 23305 or 23305.1, file any returns
29 required under those sections within a reasonable time
30 after relief is granted by the Franchise Tax Board.

31 SEC. 73. Section 23332 of the Revenue and Taxation
32 Code is amended to read:

33 23332. (a) Except in the case of a taxpayer subject to
34 the provisions of Section 23222a, any taxpayer which is
35 dissolved or withdraws from the state during any taxable
36 year shall pay a tax only for the months of the taxable year
37 which precede the effective date of the dissolution or
38 withdrawal, according to or measured by (1) the net
39 income of the preceding income year or (2) a percentage
40 of net income determined by ascertaining the ratio which

1 the months of the taxable year, preceding the effective
2 date of dissolution or withdrawal, bears to the months of
3 the income year, whichever is the lesser amount. The
4 taxes levied under this chapter shall not be subject to
5 abatement or refund because of the cessation of business
6 or corporate existence of any taxpayer pursuant to a
7 reorganization, consolidation, or merger (as defined by
8 Section 23251). In any event, each corporation shall pay
9 a tax not subject to offset for the period in an amount
10 equal to the minimum tax prescribed by Section 23153.

11 (b) The provisions of subdivision (a) shall be applied
12 only with respect to taxpayers which dissolve or withdraw
13 before January 1, 1973. On and after that date, the tax for
14 the taxable year in which the taxpayer ceases doing
15 business, dissolves or withdraws shall be determined
16 under the appropriate provisions of Section 23151.1,
17 23153, 23181, or 23183, whichever is applicable. However,
18 if all of the following conditions are satisfied, a minimum
19 franchise tax shall not be imposed with respect to the
20 taxable year in which a tax clearance certificate is issued
21 by the Franchise Tax Board:

22 (1) The taxpayer does not do business in this state at
23 any time during that taxable year.

24 (2) The taxpayer files a certificate of dissolution with
25 the Secretary of State prior to the beginning of that
26 taxable year, in accordance with Section 1905 of the
27 Corporations Code.

28 SEC. 74. Section 23332.5 of the Revenue and Taxation
29 Code is amended to read:

30 23332.5. If a financial corporation ceases doing
31 business, dissolves, or withdraws from the state during
32 any taxable year, the tax for the taxable year during which
33 cessation of doing business, dissolution or withdrawal
34 occurs shall be computed as prescribed by subdivision (b)
35 or (d) of Section 23183, 23183.1, or 23183.2.

36 SEC. 75. Section 23334 of the Revenue and Taxation
37 Code is amended to read:

38 23334. No decree of dissolution shall be made and
39 entered by any court, nor shall the county clerk of any
40 county or the Secretary of State file any decree of

1 dissolution, or file in the case of a credit union
2 incorporated under the California Credit Union Law a
3 certificate of election to dissolve, or in the case of any
4 other taxpayer file a certificate of dissolution, except as
5 provided in subdivision (c) of Section 1905 of the
6 Corporations Code, or any other document by which the
7 term of existence of the taxpayer shall be reduced or
8 terminated, nor shall the Secretary of State file any
9 certificate of the surrender by a foreign corporation of its
10 right to do intrastate business in this state unless the
11 taxpayer obtains from the Franchise Tax Board and files
12 with the court, county clerk, or Secretary of State as the
13 case may be, a tax clearance certificate indicating that the
14 Franchise Tax Board is satisfied from the available
15 evidence that all taxes imposed by this chapter have been
16 paid or are secured by bond, deposit, or otherwise. Within
17 30 days after receiving a request for a certificate, the
18 Franchise Tax Board shall either issue the certificate or
19 notify the person requesting the certificate of the amount
20 of tax that must be paid or the amount of bond, deposit,
21 or other security that must be furnished as a condition of
22 issuing the certificate. The issuance of the certificate shall
23 not relieve the taxpayer or any individual or corporation
24 from liability for any taxes, penalties, or interest imposed
25 by this part, nor shall the issuance of the certificate in the
26 case of any credit union which revokes its election to wind
27 up and dissolve, relieve that credit union of any taxes or
28 interest that would have been imposed under this part
29 had the election not been filed.

30 The Franchise Tax Board shall furnish a copy of the tax
31 clearance certificate to the Secretary of State.

32 SEC. 76. Section 23455 of the Revenue and Taxation
33 Code is amended to read:

34 23455. For purposes of this part, Section 55 of the
35 Internal Revenue Code is modified as follows:

36 (a) Section 55(b)(1) of the Internal Revenue Code,
37 relating to tentative minimum tax, is modified by
38 requiring the tentative minimum tax for the taxable year
39 to be imposed as follows:

(1) With respect to corporations subject to tax under Chapter 2 (commencing with Section 23101), other than banks or financial corporations, according to or measured by net income, for the privilege of doing business within this state, at a rate of 7 percent upon the basis of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(2) With respect to corporations subject to tax under Chapter 3 (commencing with Section 23501), on net income from sources within this state, at a rate of 7 percent upon the basis of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(3) With respect to organizations or trusts subject to tax under Article 2 (commencing with Section 23731) of Chapter 4, on the unrelated business income from sources within this state, at a rate of 7 percent upon the basis of so much of the alternative taxable income for the taxable year as exceeds the exemption amount.

(4) With respect to banks subject to tax under Section 23181, according to or measured by net income, for the privilege of doing business within this state, in an amount equal to the sum of the following:

(A) At a rate of 7 percent upon the basis of so much of the alternative minimum taxable income as exceeds the exemption amount.

(B) At the rate determined under Section 23186, less the rate prescribed by Section 23151, upon the basis of net income for the taxable year.

(5) With respect to financial corporations subject to tax under Section 23183, according to or measured by net income, for the privilege of doing business within this state, in an amount equal to the sum of the following:

(A) At a rate of 7 percent upon the basis of so much of the alternative minimum taxable income as exceeds the exemption amount.

(B) At the rate determined under Section 23186, less the rate prescribed by Section 23151, upon the basis of net income for the taxable year.

1 (b) Section 55(b)(2) of the Internal Revenue Code,
2 relating to the definition of alternative minimum taxable
3 income, is modified as follows:

4 (1) For corporations whose net income is determined
5 under Chapter 17 (commencing with Section 25101),
6 alternative minimum taxable income shall be allocated
7 and apportioned in the same manner as net income is
8 allocated and apportioned for purposes of the regular tax.

9 (2) With respect to taxpayers subject to Article 4
10 (commencing with Section 23221) of Chapter 2, Article
11 4 (commencing with Section 23221) to Article 9
12 (commencing with Section 23361), inclusive, shall apply
13 to the tax imposed by this section except that Section
14 23221 shall not apply.

15 (3) For purposes of computing the alternative
16 minimum tax for taxable years in which a taxpayer
17 commenced doing business, dissolves, withdraws, or
18 ceases doing business, Sections 18601, 23151, 23151.1,
19 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204,
20 inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, and
21 23504 shall be applied with due regard for the rate and
22 alternative minimum taxable income prescribed by this
23 chapter.

24 (c) Section 55(c) of the Internal Revenue Code,
25 relating to the definition of regular tax, is modified to
26 read:

27 (1) For purposes of this chapter, “regular tax” means
28 the amount of tax imposed under Chapter 2
29 (commencing with Section 23101) or Chapter 3
30 (commencing with Section 23501) or Article 2
31 (commencing with Section 23731) of Chapter 4, but does
32 not include any amount imposed under paragraph (1) of
33 subdivision (e) of Section 24667 or paragraph (2) of
34 subdivision (f) of Section 24667.

35 (2) The tax specified in paragraph (1) shall be the
36 amount determined prior to reduction by any credits
37 against the tax.

38 (d) The rate of 7 percent prescribed in subdivision (a)
39 shall be 6.65 percent for any income year beginning on or
40 after January 1, 1997. The change in rate provided in this

1 subdivision shall be made without proration otherwise
2 required by Section 24251.

3 SEC. 77. Section 23501 of the Revenue and Taxation
4 Code is amended to read:

5 23501. (a) There shall be imposed upon every
6 corporation, other than a bank, for each taxable year, a tax
7 at the rate of 7.6 percent upon its net income derived
8 from sources within this state on or after January 1, 1937,
9 other than income for any period for which the
10 corporation is subject to taxation under Chapter 2
11 (commencing with Section 23101), according to or
12 measured by its net income.

13 (b) For calendar or fiscal years ending after June 30,
14 1973, the rate of tax shall be 9 percent instead of 7.6
15 percent as provided by subdivision (a).

16 (c) For calendar or fiscal years ending after December
17 31, 1979, the rate of tax shall be the rate specified for those
18 years by Section 23151.

19 SEC. 78. Section 23610.5 of the Revenue and Taxation
20 Code is amended to read:

21 23610.5. (a) (1) There shall be allowed as a credit
22 against the "tax" (as defined by Section 23036) a state
23 low-income housing tax credit in an amount equal to the
24 amount determined in subdivision (c), computed in
25 accordance with Section 42 of the Internal Revenue Code
26 of 1986, except as otherwise provided in this section.

27 (2) "Taxpayer," for purposes of this section, means the
28 sole owner in the case of a C corporation, the partners in
29 the case of a partnership, and the shareholders in the case
30 of an S corporation.

31 (3) "Housing sponsor," for purposes of this section,
32 means the sole owner in the case of a C corporation, the
33 partnership in the case of a partnership, and the S
34 corporation in the case of an S corporation.

35 (b) (1) The amount of the credit allocated to any
36 housing sponsor shall be authorized by the California Tax
37 Credit Allocation Committee, or any successor thereof,
38 based on a project's need for the credit for economic
39 feasibility in accordance with the requirements of this
40 section.

1 (A) The low-income housing project shall be located
2 in California and shall meet either of the following
3 requirements:

4 (i) The project's housing sponsor shall have been
5 allocated by the California Tax Credit Allocation
6 Committee a credit for federal income tax purposes
7 under Section 42 of the Internal Revenue Code.

8 (ii) It shall qualify for a credit under Section
9 42(h)(4)(B) of the Internal Revenue Code.

10 (B) The California Tax Credit Allocation Committee
11 shall not require fees for the credit under this section in
12 addition to those fees required for applications for the tax
13 credit pursuant to Section 42 of the Internal Revenue
14 Code. The committee may require a fee if the application
15 for the credit under this section is submitted in a calendar
16 year after the year the application is submitted for the
17 federal tax credit.

18 (2) (A) The California Tax Credit Allocation
19 Committee shall certify to the housing sponsor the
20 amount of tax credit under this section allocated to the
21 housing sponsor for each credit period.

22 (B) In the case of a partnership or an S corporation, the
23 housing sponsor shall provide a copy of the California Tax
24 Credit Allocation Committee certification to the
25 taxpayer.

26 (C) The taxpayer shall, upon request, provide a copy
27 of the certification to the Franchise Tax Board.

28 (D) All elections made by the taxpayer pursuant to
29 Section 42 of the Internal Revenue Code shall apply to
30 this section.

31 (E) For buildings located in designated difficult
32 development areas or qualified census tracts as defined in
33 Section 42(d)(5)(C) of the Internal Revenue Code,
34 credits may be allocated under this section in the amounts
35 prescribed in subdivision (c), provided that the amount
36 of credit allocated under Section 42 of the Internal
37 Revenue Code is computed on 100 percent of the
38 qualified basis of the building.

39 (c) Section 42(b) of the Internal Revenue Code shall
40 be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term “applicable percentage” means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term “at risk of conversion,” with respect to an existing building means a building that satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Assistance Act of

1 1987 or under Section 502(c) of the Housing Act of 1949,
2 anytime in the two calendar years after the year of
3 application to the California Tax Credit Allocation
4 Committee, and the purchaser has received preliminary
5 approval from the applicable federal agency for a
6 maximum level of incentives through a plan of action.

7 (C) The person acquiring the building enters into a
8 regulatory agreement that requires the building to be
9 operated in accordance with the requirements of this
10 section for a period equal to the greater of 55 years or the
11 life of the building.

12 (D) The building satisfies the requirements of Section
13 42(e) of the Internal Revenue Code regarding
14 rehabilitation expenditures, except that the provisions of
15 Section 42(e)(3)(A)(ii)(I) shall not apply.

16 (d) The term “qualified low-income housing project”
17 as defined in Section 42(c)(2) of the Internal Revenue
18 Code is modified by adding the following requirements:

19 (1) The taxpayer shall be entitled to receive a cash
20 distribution from the operations of the project, after
21 funding required reserves, which, at the election of the
22 taxpayer, is equal to:

23 (A) An amount not to exceed 8 percent of the lesser of:

24 (i) The owner equity that shall include the amount of
25 the capital contributions actually paid to the housing
26 sponsor and shall not include any amounts until they are
27 paid on an investor note; or

28 (ii) Twenty percent of the adjusted basis of the
29 building as of the close of the first income year of the
30 credit period; or

31 (B) The amount of the cash-flow from those units in
32 the building that are not low-income units. For purposes
33 of computing cash-flow under this subparagraph,
34 operating costs shall be allocated to the low-income units
35 using the “floor space fraction,” as defined in Section 42
36 of the Internal Revenue Code.

37 (C) Any amount allowed to be distributed under
38 subparagraph (A) that is not available for distribution
39 during the first five years of the compliance period may

1 accumulate and be distributed any time during the first
2 15 years of the compliance period but not thereafter.

3 (2) The limitation on return shall apply in the
4 aggregate to the partners if the housing sponsor is a
5 partnership and in the aggregate to the shareholders if
6 the housing sponsor is an S corporation.

7 (3) The housing sponsor shall apply any cash available
8 for distribution in excess of the amount eligible to be
9 distributed under paragraph (1) to reduce the rent on
10 rent-restricted units or to increase the number of
11 rent-restricted units subject to the tests of Section
12 42(g)(1) of the Internal Revenue Code.

13 (e) The provisions of Section 42(f) of the Internal
14 Revenue Code shall be modified as follows:

15 (1) The term “credit period” as defined in Section
16 42(f)(1) of the Internal Revenue Code is modified by
17 substituting “four income years” for “10 taxable years.”

18 (2) The special rule for the first taxable year of the
19 credit period under Section 42(f)(2) of the Internal
20 Revenue Code shall not apply to the tax credit under this
21 section.

22 (3) Section 42(f)(3) of the Internal Revenue Code is
23 modified to read:

24 If, as of the close of any income year in the compliance
25 period, after the first year of the credit period, the
26 qualified basis of any building exceeds the qualified basis
27 of that building as of the close of the first year of the credit
28 period, the housing sponsor, to the extent of its tax credit
29 allocation, shall be eligible for a credit on the excess in an
30 amount equal to the applicable percentage determined
31 pursuant to subdivision (c) for the four-year period
32 beginning with the later of the income years in which the
33 increase in qualified basis occurs.

34 (f) The provisions of Section 42(h) of the Internal
35 Revenue Code shall be modified as follows:

36 (1) Section 42(h)(2) of the Internal Revenue Code
37 shall not be applicable and instead the following
38 provisions shall be applicable:

39 The total amount for the four-year credit period of the
40 housing credit dollars allocated in a calendar year to any

1 building shall reduce the aggregate housing credit dollar
2 amount of the California Tax Credit Allocation
3 Committee for the calendar year in which the allocation
4 is made.

5 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F),
6 (6)(G), (6)(I), (7), and (8) of Section 42(h) of the
7 Internal Revenue Code shall not be applicable.

8 (g) The aggregate housing credit dollar amount which
9 may be allocated annually by the California Tax Credit
10 Allocation Committee pursuant to this section, Section
11 12206, and Section 17058 shall be an amount equal to the
12 sum of the following:

13 (1) Thirty-five million dollars (\$35,000,000).

14 (2) The unused housing credit ceiling, if any, for the
15 preceding calendar years; and

16 (3) The amount of housing credit ceiling returned in
17 the calendar year. For purposes of this paragraph, the
18 amount of housing credit dollar amount returned in the
19 calendar year equals the housing credit dollar amount
20 previously allocated to any project that does not become
21 a qualified low-income housing project within the period
22 required by this section or to any project with respect to
23 which an allocation is canceled by mutual consent of the
24 California Tax Credit Allocation Committee and the
25 allocation recipient.

26 (h) The term “compliance period” as defined in
27 Section 42(i)(1) of the Internal Revenue Code is
28 modified to mean, with respect to any building, the
29 period of 30-consecutive income years beginning with the
30 first income year of the credit period with respect
31 thereto.

32 (i) Section 42(j) of the Internal Revenue Code shall
33 not be applicable and the following shall be substituted in
34 its place:

35 (1) The requirements of this section shall be set forth
36 in a regulatory agreement between the California Tax
37 Credit Allocation Committee and the housing sponsor,
38 and this agreement shall be subordinated, when required,
39 to any lien or encumbrance of any banks or other
40 institutional lenders to the project. The regulatory

1 agreement entered into pursuant to subdivision (f) of
2 Section 50199.14 of the Health and Safety Code, shall
3 apply, providing the agreement includes all of the
4 following provisions:

5 (A) A term not less than the compliance period.

6 (B) A requirement that the agreement be filed in the
7 official records of the county in which the qualified
8 low-income housing project is located.

9 (C) A provision stating which state and local agencies
10 can enforce the regulatory agreement in the event the
11 housing sponsor fails to satisfy any of the requirements of
12 this section.

13 (D) A provision that the regulatory agreement shall
14 be deemed a contract enforceable by tenants as
15 third-party beneficiaries thereto, and which allows
16 individuals, whether prospective, present, or former
17 occupants of the building, who meet the income
18 limitation applicable to the building, the right to enforce
19 the regulatory agreement in any state court.

20 (E) A provision incorporating the requirements of
21 Section 42 of the Internal Revenue Code as modified by
22 this section.

23 (F) A requirement that the housing sponsor notify the
24 California Tax Credit Allocation Committee or its
25 designee if there is a determination by the Internal
26 Revenue Service that the project is not in compliance
27 with Section 42(g) of the Internal Revenue Code.

28 (G) A requirement that the housing sponsor, as
29 security for the performance of the housing sponsor's
30 obligations under the regulatory agreement, assign the
31 housing sponsor's interest in rents that it receives from
32 the project, provided that until there is a default under
33 the regulatory agreement, the housing sponsor is entitled
34 to collect and retain the rents.

35 (H) The remedies available in the event of a default
36 under the regulatory agreement that is not cured within
37 a reasonable cure period, include, but are not limited to,
38 allowing any of the parties designated to enforce the
39 regulatory agreement to collect all rents with respect to
40 the project; taking possession of the project and operating

1 the project in accordance with the regulatory agreement
2 until the enforcer determines the housing sponsor is in a
3 position to operate the project in accordance with the
4 regulatory agreement; applying to any court for specific
5 performance; securing the appointment of a receiver to
6 operate the project; or any other relief as may be
7 appropriate.

8 (j) (1) The committee shall allocate the housing
9 credit on a regular basis consisting of two or more periods
10 in each calendar year during which applications may be
11 filed and considered. The committee shall establish
12 application filing deadlines, the maximum percentage of
13 federal and state low-income housing tax credit ceiling
14 that may be allocated by the committee in that period,
15 and the approximate date on which allocations shall be
16 made. If the enactment of federal or state law, the
17 adoption of rules or regulations, or other similar events
18 prevent the use of two allocation periods, the committee
19 may reduce the number of periods and adjust the filing
20 deadlines, maximum percentage of credit allocated, and
21 the allocation dates.

22 (2) The committee shall adopt a qualified allocation
23 plan, as provided in Section 42(m)(1) of the Internal
24 Revenue Code. In adopting this plan, the committee shall
25 comply with the provisions of Sections 42(m)(1)(B) and
26 42(m)(1)(C) of the Internal Revenue Code.

27 (3) Notwithstanding Section 42(m) of the Internal
28 Revenue Code, the California Tax Credit Allocation
29 Committee shall allocate housing credits in accordance
30 with the qualified allocation plan and regulations, which
31 shall include the following provisions:

32 (A) All housing sponsors, as defined by paragraph (3)
33 of subdivision (a), shall demonstrate at the time the
34 application is filed with the committee that the project
35 meets the following threshold requirements:

36 (i) The housing sponsor shall demonstrate there is a
37 need for low-income housing in the community or region
38 for which it is proposed.

39 (ii) The project's proposed financing, including tax
40 credit proceeds, shall be sufficient to complete the

1 project and shall be adequate to operate the project for
2 the extended use period.

3 (iii) The project shall have enforceable financing
4 commitments, either construction or permanent
5 financing, for at least 50 percent of the total estimated
6 financing of the project.

7 (iv) The housing sponsor shall have and maintain
8 control of the site for the project.

9 (v) The housing sponsor shall demonstrate that the
10 project complies with all applicable local land use and
11 zoning ordinances.

12 (vi) The housing sponsor shall demonstrate that the
13 project development team has the experience and the
14 financial capacity to ensure project completion and
15 operation for the extended use period.

16 (vii) The housing sponsor shall demonstrate the
17 amount of tax credit that is necessary for the financial
18 feasibility of the project and its viability as a qualified
19 low-income housing project throughout the extended use
20 period, taking into account operating expenses, a
21 supportable debt service, reserves, funds set aside for
22 rental subsidies, and required equity, and a development
23 fee that does not exceed a specified percentage of the
24 eligible basis of the project prior to inclusion of the
25 development fee in the eligible basis, as determined by
26 the committee.

27 (B) The committee shall give a preference to those
28 projects satisfying all of the threshold requirements of
29 subparagraph (A) if:

30 (i) The project serves the lowest income tenants at
31 rents affordable to those tenants; and

32 (ii) The project is obligated to serve qualified tenants
33 for the longest period.

34 (C) In addition to the provisions of subparagraphs (A)
35 and (B), the committee shall use the following criteria in
36 allocating housing credits:

37 (i) Projects serving large families in which a
38 substantial number, as defined by the committee of all
39 residential units is comprised of low-income units with
40 three and more bedrooms.

1 (ii) Projects providing single room occupancy units
2 serving very low income tenants.

3 (iii) Existing projects that are “at risk of conversion,”
4 as defined by paragraph (4) of subdivision (c).

5 (iv) Projects for which a public agency provides direct
6 or indirect long-term financial support for at least 15
7 percent of the total project development costs or projects
8 for which the owner’s equity constitutes at least 30
9 percent of the total project development costs.

10 (v) Projects that provide tenant amenities not
11 generally available to residents of low-income housing
12 projects.

13 (4) For purposes of allocating credits pursuant to this
14 section, the committee shall not give preference to any
15 project by virtue of the date of submission of its
16 application except to break a tie when two or more of the
17 projects have an equal rating.

18 (5) Not less than 20 percent of the low-income housing
19 tax credits available annually under this section, Section
20 12206, and Section 17058 shall be set aside for allocation
21 to rural areas as defined in Section 50199.21 of the Health
22 and Safety Code. Any amount of credit set aside for rural
23 areas remaining on or after October 31 of any calendar
24 year shall be available for allocation to any eligible
25 project. No amount of credit set aside for rural areas shall
26 be considered available for any eligible project so long as
27 there are eligible rural applications pending on October
28 31.

29 (k) Section 42(l) of the Internal Revenue Code shall
30 be modified as follows:

31 The term “secretary” shall be replaced by the term
32 “California Franchise Tax Board.”

33 (l) In the case where the state credit allowed under
34 this section exceeds the “tax,” the excess may be carried
35 over to reduce the “tax” in the following year, and
36 succeeding years if necessary, until the credit has been
37 exhausted.

38 (m) A project that received an allocation of a 1989
39 federal housing credit dollar amount shall be eligible to

1 receive an allocation of a 1990 state housing credit dollar
2 amount, subject to all of the following conditions:

3 (1) The project was not placed in service prior to 1990.

4 (2) To the extent the amendments made to this section
5 by the Statutes of 1990 conflict with any provisions
6 existing in this section prior to those amendments, the
7 prior provisions of law shall prevail.

8 (3) Notwithstanding paragraph (2), a project
9 applying for an allocation under this subdivision shall be
10 subject to the requirements of paragraph (3) of
11 subdivision (j).

12 (n) The credit period with respect to an allocation of
13 credit in 1989 by the California Tax Credit Allocation
14 Committee of which any amount is attributable to
15 unallocated credit from 1987 or 1988 shall not begin until
16 after December 31, 1989.

17 (o) The provisions of Section 11407(a) of Public Law
18 101-508, relating to the effective date of the extension of
19 the low-income housing credit, shall apply to calendar
20 years after 1989.

21 (p) The provisions of Section 11407(c) of Public Law
22 101-508, relating to election to accelerate credit, shall not
23 apply.

24 (q) (1) A corporation may elect to assign any portion
25 of any credit allowed under this section to one or more
26 affiliated corporations for each income year in which the
27 credit is allowed. For purposes of this subdivision,
28 “affiliated corporation” has the meaning provided in
29 subdivision (b) of Section 25110, as that section was
30 amended by Chapter 881 of the Statutes of 1993, as of the
31 last day of the income year in which the credit is allowed,
32 except that “100 percent” is substituted for “more than 50
33 percent” wherever it appears in the section, as that
34 section was amended by Chapter 881 of the Statutes of
35 1993, and “voting common stock” is substituted for
36 “voting stock” wherever it appears in the section, as that
37 section was amended by Chapter 881 of the Statutes of
38 1993.

39 (2) The election provided in paragraph (1):

1 (A) May be based on any method selected by the
2 corporation that originally receives the credit.

3 (B) Shall be irrevocable for the income year the credit
4 is allowed, once made.

5 (C) May be changed for any subsequent income year
6 if the election to make the assignment is expressly shown
7 on each of the returns of the affiliated corporations that
8 assign and receive the credits.

9 (r) Any unused credit may continue to be carried
10 forward, as provided in subdivision (k), until the credit
11 has been exhausted.

12 This section shall remain in effect on or after December
13 1, 1990, for as long as Section 42 of the Internal Revenue
14 Code, pertaining to low-income housing credits, remains
15 in effect.

16 (s) The amendments to this section made by the act
17 adding this subdivision shall apply only to income years
18 beginning on or after January 1, 1994, except that
19 paragraph (1) of subdivision (q), as amended, shall apply
20 to income years beginning on or after January 1, 1993.

21 SEC. 79. Section 23612.6 of the Revenue and Taxation
22 Code is amended to read:

23 23612.6. (a) For each income year beginning on or
24 after January 1, 1992, and before January 1, 1998, there
25 shall be allowed a credit against the “tax,” as defined by
26 Section 23036, for the income year an amount equal to the
27 sales or use tax paid or incurred during the income year
28 by the taxpayer in connection with the taxpayer’s
29 purchase of qualified property.

30 (b) For purposes of this section:

31 (1) “Taxpayer” means a corporation engaged in a
32 trade or business within the Los Angeles Revitalization
33 Zone designated pursuant to Section 7102 of the
34 Government Code.

35 (2) “Qualified property” means the purchase on or
36 after May 1, 1992, and before the zone expiration date, of
37 either or both of the following:

38 (A) Building materials to replace or repair the
39 taxpayer’s building and fixtures.

(B) Machinery or equipment, excluding inventory, to be used by the taxpayer exclusively in the Los Angeles Revitalization Zone.

(3) “Zone expiration date” means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(c) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

(d) In the case where the credit otherwise allowed under this section exceeds the tax for the income year, that portion of the credit that exceeds the tax may be carried over and added to the credit, if any, in succeeding income years for the number of income years in which the designation of the Los Angeles Revitalization Zone under Section 7102 of the Government Code is operative, or 15 income years, if longer, until the credit is exhausted. The credit shall be applied first to the earliest income year possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to the sales and use tax paid or incurred in connection with the taxpayer’s purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Sections 23623.5 and 23625, including any credit carryover from prior years, that may reduce the tax for the income year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the Los Angeles Revitalization Zone (designated pursuant to Section 7102 of the Government Code) determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) The amount of attributable income described in paragraph (1) shall be that portion of the taxpayer’s California source business income which is apportioned

1 to the Los Angeles Revitalization Zone. For that purpose,
2 the taxpayer's business income attributable to sources in
3 this state first shall be determined in accordance with the
4 provisions of Chapter 17 (commencing with Section
5 25101). That business income shall be further
6 apportioned to the Los Angeles Revitalization Zone in
7 accordance with the provisions of Article 2 (commencing
8 with Section 25120) of Chapter 17, modified as follows:

9 (A) Business income shall be apportioned to the Los
10 Angeles Revitalization Zone by multiplying total
11 California business income of the taxpayer by a fraction,
12 the numerator of which is the property factor plus the
13 payroll factor, and the denominator of which is two.

14 (B) The property factor is a fraction, the numerator of
15 which is the average value of the taxpayer's real and
16 tangible personal property owned or rented and used in
17 the Los Angeles Revitalization Zone during the income
18 year and the denominator of which is the average value
19 of all the taxpayer's real and tangible personal property
20 owned or rented and used in this state during the income
21 year.

22 (C) The payroll factor is a fraction, the numerator of
23 which is the total amount paid by the taxpayer in the Los
24 Angeles Revitalization Zone during the income year for
25 compensation, and the denominator of which is the total
26 compensation paid by the taxpayer in this state during the
27 income year.

28 (3) The portion of the credit remaining, if any, after
29 application of this subdivision, shall be carried over to
30 succeeding income years, as if it were an amount
31 exceeding the tax for the income year, as provided in
32 subdivision (d).

33 (g) If the qualified property is disposed of or no longer
34 used by the taxpayer in the Los Angeles Revitalization
35 Zone, at any time before the close of the second income
36 year after the property is placed in service, the amount
37 of the credit previously claimed shall be added to the
38 taxpayer's tax liability in the income year of that
39 disposition or nonuse.

(h) This section shall be inoperative as of the first day of the income year beginning on or after the determination date, and each income year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code. However, if the taxpayer has any unused credit amount as of the date this section becomes inoperative, that unused credit amount may continue to be carried forward as provided in subdivision (d).

(i) This section shall remain in effect only until December 1, 1998, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (d).

SEC. 80. Section 23623.5 of the Revenue and Taxation Code is amended to read:

23623.5. (a) For each income year beginning on or after January 1, 1992, and before January 1, 1998, the taxpayer shall be allowed for hiring qualified disadvantaged individuals on or after May 1, 1992, a credit against the "tax," as defined in Section 23036, for the income year equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the
3 taxpayer during the income year to qualified
4 disadvantaged individuals that does not exceed 150
5 percent of the minimum wage.

6 (B) Wages received during the 60-month period
7 beginning with the day the disadvantaged individual
8 commences employment with the taxpayer.

9 (C) Qualified wages does not include any wages paid
10 or incurred by the taxpayer on or after the zone
11 expiration date.

12 (D) If, after a taxpayer hires a qualified disadvantaged
13 individual, the geographic area in which the taxpayer’s
14 trade or business is located is excluded from the map of
15 the Los Angeles Revitalization Zone by the Trade and
16 Commerce Agency pursuant to Section 7102 or 7104 of
17 the Government Code, wages paid or incurred with
18 respect to the disadvantaged individual may continue to
19 be qualified wages and may qualify for the credit under
20 this section, provided all provisions of this section are
21 satisfied, applied as if the taxpayer’s trade or business was
22 still located within the Los Angeles Revitalization Zone.

23 (2) “Minimum wage” means the wage established by
24 the Industrial Welfare Commission as provided for in
25 Chapter 1 (commencing with Section 1171) of Part 4 of
26 Division 2 of the Labor Code.

27 (3) “Qualified disadvantaged individual” means an
28 individual who is a qualified employee and a resident of
29 the Los Angeles Revitalization Zone.

30 (4) “Los Angeles Revitalization Zone” means the area
31 designated under Section 7102 of the Government Code.

32 (5) “Qualified employee” means an individual that
33 meets both of the following:

34 (A) At least 90 percent of whose services for the
35 taxpayer during the income year are directly related to
36 the conduct of the taxpayer’s trade or business located in
37 the Los Angeles Revitalization Zone.

38 (B) Who performs at least 50 percent of his or her
39 services for the taxpayer during the income year in the
40 Los Angeles Revitalization Zone.

(6) “Resident” means a “resident” as defined in Section 7101 of the Government Code.

(7) “Taxpayer” means a corporation engaged in a trade or business within the Los Angeles Revitalization Zone.

(8) “Zone expiration date” means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(9) (A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit and allocated in that manner.

(C) “Controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal Revenue Code.

(10) If a taxpayer acquires the major portion of a trade or business of another employer (hereafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for the purposes of applying this section (other than subdivision (c)) for any calendar year ending after that acquisition, the employment relationship between a disadvantaged individual and an employer shall not be treated as terminated if the individual continues to be employed in that trade or business.

(c) (1) If the employment of any disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a), is terminated by the taxpayer at any time during the first 270 days of

1 that employment (whether or not consecutive) or before
2 the close of the 270th calendar day after the day in which
3 that individual completes 90 days of employment with
4 the taxpayer, the tax imposed by this part for the income
5 year in which that employment is terminated shall be
6 increased by an amount equal to the credit allowed under
7 subdivision (a) for that income year and all prior income
8 years attributable to qualified wages paid or incurred
9 with respect to that individual.

10 (2) (A) Paragraph (1) shall not apply to any of the
11 following:

12 (i) A termination of employment of a disadvantaged
13 individual who voluntarily leaves the employment of the
14 taxpayer.

15 (ii) A termination of employment of a disadvantaged
16 individual who, before the close of the period referred to
17 in paragraph (1), becomes disabled and unable to
18 perform the services of that employment, unless that
19 disability is removed before the close of that period and
20 the taxpayer fails to offer reemployment to that
21 individual.

22 (iii) A termination of employment of a disadvantaged
23 individual, if it is determined under the applicable
24 employment compensation provisions that the
25 termination was due to the misconduct of that individual.

26 (iv) A termination of employment of a disadvantaged
27 individual due to a substantial reduction in the trade or
28 business operations of the taxpayer.

29 (v) A termination of employment of a disadvantaged
30 individual, if that individual is replaced by other qualified
31 employees so as to create a net increase in both the
32 number of employees and the hours of employment.

33 (B) For purposes of paragraph (1), the employment
34 relationship between the taxpayer and a disadvantaged
35 individual shall not be treated as terminated by either of
36 the following:

37 (i) By a transaction to which Section 381(a) of the
38 Internal Revenue Code applies, if the individual
39 continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the individual continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(d) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Sections 46(e) and 46(h) of the Internal Revenue Code shall apply.

(e) The credit shall be reduced by the credits allowed under Sections 23621, 23622, 23623, and 23625, claimed for the same disadvantaged individual. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds tax for the income year, that portion of the credit that exceeds the tax may be carried over and added to the credit, if any, in succeeding income years while the designation of the Los Angeles Revitalization Zone under Section 7102 of the Government Code is operative or 15 income years, if longer, until the credit is exhausted. The credit shall be applied first to the earliest income years possible.

(g) (1) The amount of credit otherwise allowed under this section and Sections 23612.6 and 23625, including any credit carryover from prior years, that may reduce the tax for the income year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributable to the Los Angeles

1 Revitalization Zone determined as if that attributable
2 income represented all of the income of the taxpayer
3 subject to tax under this part.

4 (2) The amount of attributable income described in
5 paragraph (1) shall be that portion of the taxpayer's
6 California source business income which is apportioned
7 to the Los Angeles Revitalization Zone. For that purpose,
8 the taxpayer's business income attributable to sources in
9 this state first shall be determined in accordance with the
10 provisions of Chapter 17 (commencing with Section
11 25101). That business income shall be further
12 apportioned to the Los Angeles Revitalization Zone in
13 accordance with the provisions of Article 2 (commencing
14 with Section 25120) of Chapter 17, modified as follows:

15 (A) Business income shall be apportioned to the Los
16 Angeles Revitalization Zone by multiplying total
17 California business income of the taxpayer by a fraction,
18 the numerator of which is the property factor plus the
19 payroll factor, and the denominator of which is two.

20 (B) The property factor is a fraction, the numerator of
21 which is the average value of the taxpayer's real and
22 tangible personal property owned or rented and used in
23 the Los Angeles Revitalization Zone during the income
24 year and the denominator of which is the average value
25 of all the taxpayer's real and tangible personal property
26 owned or rented and used in this state during the income
27 year.

28 (C) The payroll factor is a fraction, the numerator of
29 which is the total amount paid by the taxpayer in the Los
30 Angeles Revitalization Zone during the income year for
31 compensation, and the denominator of which is the total
32 compensation paid by the taxpayer in this state during the
33 income year.

34 (3) The portion of the credit remaining, if any, after
35 application of this subdivision, shall be carried over to
36 succeeding income years, as if it were an amount
37 exceeding the tax for the income year, as provided in
38 subdivision (f).

39 (h) Except as provided in subparagraph (D) of
40 paragraph (1) of subdivision (b), this section shall be

1 inoperative on the first day of the income year beginning
2 on or after the determination date, and each income year
3 thereafter, with respect to the taxpayer's business
4 activities within a geographic area that is excluded from
5 the map pursuant to Section 7102 of the Government
6 Code, or an excluded area determined pursuant to
7 Section 7104 of the Government Code. The
8 determination date is the earlier of the first effective date
9 of a determination under subdivision (c) of Section 7102
10 of the Government Code occurring after December 1,
11 1994, or the first effective date of an exclusion of an area
12 from the amended Los Angeles Revitalization Zone
13 under Section 7104 of the Government Code. However,
14 if the taxpayer has any unused credit amount as of the
15 date this section becomes inoperative, that unused credit
16 amount may continue to be carried forward as provided
17 in subdivision (f).

18 (i) This section shall remain in effect only until
19 December 1, 1998, and as of that date is repealed.
20 However, any unused credit may continue to be carried
21 forward, as specified in subdivision (f).

22 SEC. 81. Section 23625 of the Revenue and Taxation
23 Code is amended to read:

24 23625. (a) For each income year beginning on or
25 after January 1, 1992, and before January 1, 1998, there
26 shall be allowed to a taxpayer who employs qualified
27 employees in the Los Angeles Revitalization Zone during
28 the income year as a credit against the "tax," as defined
29 in Section 23036, an amount equal to the sum of the
30 following:

31 (1) One hundred percent of the qualified wages paid
32 or incurred during the period from May 1, 1992, to the end
33 of the sixth full month after the designation of the Los
34 Angeles Revitalization Zone with respect to qualified
35 employees that are hired during that period.

36 (2) Seventy-five percent of the qualified wages paid or
37 incurred during the period from the beginning of the
38 seventh month after designation to the end of the 12th full
39 month after designation with respect to qualified
40 employees that are hired during that period.

(3) Fifty percent of the qualified wages paid or incurred during the period from the beginning of the 13th month after designation to the end of the 60th full month after designation with respect to qualified employees that are hired during that period.

(b) For purposes of this section:

(1) (A) “Qualified wages” means that portion of wages paid or incurred by the taxpayer for construction work in the Los Angeles Revitalization Zone during the income year with respect to qualified employees which does not exceed 150 percent of the minimum wage.

(B) If, after a taxpayer hires a qualified employee, the geographic area in which the taxpayer’s trade or business is located is excluded from the map of the Los Angeles Revitalization Zone by the Trade and Commerce Agency pursuant to Section 7102 or 7104 of the Government Code, wages paid or incurred with respect to the qualified employee may continue to be qualified wages and may qualify for the credit under this section, provided all provisions of this section are satisfied, applied as if the taxpayer’s trade or business was still located within the Los Angeles Revitalization Zone.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Qualified employee” means an individual to whom both of the following apply:

(A) Is a resident, as defined in Section 7101 of the Government Code, in the Los Angeles Revitalization Zone.

(B) Was hired by the taxpayer to perform construction work in the Los Angeles Revitalization Zone.

(4) “Los Angeles Revitalization Zone” means the area designated pursuant to Section 7102 of the Government Code.

(5) “Construction work” means any work performed by a qualified employee directly related to the erection, demolition, repair, or renovation of a structure located within the Los Angeles Revitalization Zone.

1 (6) “Taxpayer” means a corporation engaged in a
2 trade or business within the Los Angeles Revitalization
3 Zone.

4 (c) If an employer acquires the major portion of a
5 trade or business of another employer (hereafter in this
6 subdivision referred to as the “predecessor”) or the major
7 portion of a separate unit of a trade or business of a
8 predecessor, then, for the purposes of applying this
9 section, other than subdivision (h), for any income year
10 ending after the acquisition, the employment
11 relationship between a qualified employee and employer
12 shall not be treated as terminated if the employee
13 continues to be employed in that trade or business.

14 (d) The credit shall be reduced by the credits
15 allowable under Sections 23621, 23622, 23623, and 23623.5
16 claimed for the same qualified employee. The credit shall
17 also be reduced by the credit allowed under Section 51 of
18 the Internal Revenue Code for the same qualified
19 employee.

20 (e) Any deduction otherwise allowed under this part
21 for the wages or salaries paid or incurred by the taxpayer
22 upon which the credit is based shall be reduced by the
23 amount of credit, prior to any reduction required by
24 subdivision (f) or (g).

25 (f) In the case where the credit otherwise allowed
26 under this section exceeds the tax for the income year,
27 that portion of the credit that exceeds the tax may be
28 carried over and added to the credit, if any, in succeeding
29 income years for the number of income years in which
30 the designation of the Los Angeles Revitalization Zone
31 under Section 7102 of the Government Code is operative,
32 or 15 income years, if longer, until the credit is exhausted.
33 The credit shall be applied first to the earliest income year
34 possible.

35 (g) (1) The amount of credit otherwise allowed
36 under this section and Sections 23612.6 and 23623.5,
37 including any credit carryover from prior years, that may
38 reduce the tax for the income year shall not exceed the
39 amount of tax that would be imposed on the taxpayer’s
40 business income attributable to the Los Angeles

1 Revitalization Zone determined as if that attributable
2 income represented all of the income of the taxpayer
3 subject to tax under this part.

4 (2) The amount of attributable income described in
5 paragraph (1) shall be that portion of the taxpayer's
6 California source business income which is apportioned
7 to the Los Angeles Revitalization Zone. For that purpose,
8 the taxpayer's business income attributable to sources in
9 this state first shall be determined in accordance with the
10 provisions of Chapter 17 (commencing with Section
11 25101). That business income shall be further
12 apportioned to the Los Angeles Revitalization Zone in
13 accordance with the provisions of Article 2 (commencing
14 with Section 25120) of Chapter 17 of Part 11, modified as
15 follows:

16 (A) Business income shall be apportioned to the Los
17 Angeles Revitalization Zone by multiplying total
18 California business income of the taxpayer by a fraction,
19 the numerator of which is the property factor plus the
20 payroll factor, and the denominator of which is two.

21 (B) The property factor is a fraction, the numerator of
22 which is the average value of the taxpayer's real and
23 tangible personal property owned or rented and used in
24 the Los Angeles Revitalization Zone during the income
25 year and the denominator of which is the average value
26 of all the taxpayer's real and tangible personal property
27 owned or rented and used in this state during the income
28 year.

29 (C) The payroll factor is a fraction, the numerator of
30 which is the total amount paid by the taxpayer in the Los
31 Angeles Revitalization Zone during the income year for
32 compensation, and the denominator of which is the total
33 compensation paid by the taxpayer in this state during the
34 income year.

35 (3) The portion of the credit remaining, if any, after
36 application of this subdivision, shall be carried over to
37 succeeding income years, as if it were an amount
38 exceeding the tax for the income year, as provided in
39 subdivision (f).

1 (h) (1) If the employment of any qualified employee,
2 with respect to whom qualified wages are taken into
3 account under subdivision (a) is terminated by the
4 taxpayer at any time during the first 270 days of that
5 employment (whether or not consecutive) or before the
6 close of the 270th calendar day after the day in which that
7 employee completes 90 days of employment with the
8 taxpayer, the tax imposed by this part for the income year
9 in which that employment is terminated shall be
10 increased by an amount equal to the credit allowed under
11 subdivision (a) for that income year and all prior income
12 years attributable to qualified wages paid or incurred
13 with respect to that employee.

14 (2) (A) Paragraph (1) shall not apply to any of the
15 following:

16 (i) A termination of employment of a qualified
17 employee who voluntarily leaves the employment of the
18 taxpayer.

19 (ii) A termination of employment of a qualified
20 employee who, before the close of the period referred to
21 in paragraph (1), becomes disabled and unable to
22 perform the services of that employment, unless that
23 disability is removed before the close of that period and
24 the taxpayer fails to offer reemployment to that qualified
25 employee.

26 (iii) A termination of employment of a qualified
27 employee, if it is determined under the applicable
28 employment compensation provisions that the
29 termination was due to the misconduct of that qualified
30 employee.

31 (iv) A termination of employment of a qualified
32 employee due to a substantial reduction in the trade or
33 business operations of the taxpayer.

34 (v) A termination of employment of a qualified
35 employee, if that qualified employee is replaced by other
36 qualified employees so as to create a net increase in both
37 the number of employees and the hours of employment.

38 (vi) A termination of employment due to a
39 contractual agreement.

1 (B) For purposes of paragraph (1), the employment
2 relationship between the taxpayer and a qualified
3 employee shall not be treated as terminated by reason of
4 a mere change in the form of conducting the trade or
5 business of the taxpayer, if the qualified employee
6 continues to be employed in that trade or business and
7 the taxpayer retains a substantial interest in that trade or
8 business.

9 (i) Except as provided in subparagraph (B) of
10 paragraph (1) of subdivision (b), this section shall cease
11 to be operative on the first day of the income year
12 beginning on or after the determination date, and each
13 income year thereafter, with respect to the taxpayer's
14 business activities within a geographic area that is
15 excluded from the map pursuant to Section 7102 of the
16 Government Code, or an excluded area determined
17 pursuant to Section 7104 of the Government Code. For
18 purposes of this subdivision, "determination date" means
19 the earlier of the first effective date of a determination
20 under subdivision (c) of Section 7102 of the Government
21 Code occurring after December 1, 1994, or the first
22 effective date of an exclusion of an area from the
23 amended Los Angeles Revitalization Zone under Section
24 7104 of the Government Code. However, if the taxpayer
25 has any unused credit amount as of the date this section
26 becomes inoperative, that unused credit amount may
27 continue to be carried forward as provided in subdivision
28 (f).

29 (j) This section shall remain in effect only until
30 December 1, 1998, and as of that date is repealed.
31 However, any unused credit may continue to be carried
32 forward, as provided in subdivision (f).

33 SEC. 82. Section 23645 of the Revenue and Taxation
34 Code is amended to read:

35 23645. (a) For each income year beginning on or
36 after January 1, 1995, and before January 1, 2003, there
37 shall be allowed as a credit against the "tax" (as defined
38 by Section 23036) for the income year an amount equal
39 to the sales or use tax paid or incurred by the taxpayer in
40 connection with the purchase of qualified property to the

1 extent that the qualified property does not exceed a value
2 of twenty million dollars (\$20,000,000).

3 (b) For purposes of this section:

4 (1) “LAMBRA” means a local agency military base
5 recovery area designated in accordance with Section 7114
6 of the Government Code.

7 (2) “Taxpayer” means a corporation that conducts a
8 trade or business within a LAMBRA and, for the first two
9 income years, has a net increase in jobs (defined as 2,000
10 paid hours per employee per year) of one or more
11 employees in the LAMBRA.

12 (A) The net increase in the number of jobs shall be
13 determined by subtracting the total number of full-time
14 employees (defined as 2,000 paid hours per employee per
15 year) the taxpayer employed in this state in the income
16 year prior to commencing business operations in the
17 LAMBRA from the total number of full-time employees
18 the taxpayer employed in this state during the second
19 income year after commencing business operations in the
20 LAMBRA. For taxpayers who commence doing business
21 in this state with their LAMBRA business operation, the
22 number of employees for the income year prior to
23 commencing business operations in the LAMBRA shall
24 be zero. If the taxpayer has a net increase in jobs in the
25 state, the credit shall be allowed only if one or more
26 full-time employees is employed within the LAMBRA.

27 (B) The total number of employees employed in the
28 LAMBRA shall equal the sum of both of the following:

29 (i) The total number of hours worked in the LAMBRA
30 for the taxpayer by employees (not to exceed 2,000 hours
31 per employee) who are paid an hourly wage divided by
32 2,000.

33 (ii) The total number of months worked in the
34 LAMBRA for the taxpayer by employees that are salaried
35 employees divided by 12.

36 (C) In the case of a taxpayer who first commences
37 doing business in the LAMBRA during the income year,
38 for purposes of clauses (i) and (ii), respectively, of
39 subparagraph (B) the divisors “2,000” and “12” shall be
40 multiplied by a fraction, the numerator of which is the

1 number of months of the income year that the taxpayer
2 was doing business in the LAMBRA and the denominator
3 of which is 12.

4 (3) “Qualified property” means the purchase of any of
5 the following for exclusive use in a LAMBRA:

6 (A) High technology equipment, including, but not
7 limited to, computers and electronic processing
8 equipment.

9 (B) Aircraft maintenance equipment, including, but
10 not limited to, engine stands, hydraulic mules, power
11 carts, test equipment, handtools, aircraft start carts, and
12 tugs.

13 (C) Aircraft components, including, but not limited
14 to, engines, fuel control units, hydraulic pumps, avionics,
15 starts, wheels, and tires.

16 (D) Any property that is Section 1245 property, as
17 defined in Section 1245(a)(3) of the Internal Revenue
18 Code.

19 (c) The credit provided under subdivision (a) shall
20 only be allowed for qualified property manufactured in
21 California unless qualified property of a comparable
22 quality and price is not available for timely purchase and
23 delivery from a California manufacturer.

24 (d) In the case where the credit otherwise allowed
25 under this section exceeds the “tax” for the income year,
26 that portion of the credit which exceeds the “tax” may be
27 carried over and added to the credit, if any, in succeeding
28 years, until the credit is exhausted. The credit shall be
29 applied first to the earliest income years possible.

30 (e) Any taxpayer who elects to be subject to this
31 section shall not be entitled to increase the basis of the
32 property as otherwise required by Section 164(a) of the
33 Internal Revenue Code with respect to sales or use tax
34 paid or incurred in connection with the purchase of
35 qualified property.

36 (f) (1) The amount of the credit otherwise allowed
37 under this section and Section 23646, including any credit
38 carryovers from prior years, that may reduce the “tax” for
39 the income year shall not exceed the amount of tax that
40 would be imposed on the taxpayer’s business income

1 attributed to a LAMBRA determined as if that
2 attributable income represented all the income of the
3 taxpayer subject to tax under this part.

4 (2) The amount of attributable income described in
5 paragraph (1) shall be determined in accordance with
6 the provisions of Chapter 17 (commencing with Section
7 25101), modified for purposes of this section as follows:

8 (A) Income shall be apportioned to a LAMBRA by
9 multiplying total business income by a fraction, the
10 numerator of which is the property factor, plus the
11 payroll factor, and the denominator of which is two.

12 (B) “The LAMBRA” shall be substituted for “this
13 state.”

14 (3) The portion of any credit remaining, if any, after
15 application of this subdivision, shall be carried over to
16 succeeding income years, as if it were an amount
17 exceeding the “tax” for the income year, as provided in
18 subdivision (d).

19 (g) (1) If the qualified property is disposed of or no
20 longer used by the taxpayer in the LAMBRA, at any time
21 before the close of the second taxable year after the
22 property is placed in service, the amount of the credit
23 previously claimed, with respect to that property, shall be
24 added to the taxpayer’s tax liability in the taxable year of
25 that disposition or nonuse.

26 (2) At the close of the second income year, if the
27 taxpayer has not increased the number of its employees
28 as determined by paragraph (2) of subdivision (b), then
29 the amount of the credit previously claimed shall be
30 added to the taxpayer’s tax for the taxpayer’s second
31 income year.

32 (h) If the taxpayer is allowed a credit for qualified
33 property pursuant to this section, only one credit shall be
34 allowed to the taxpayer under this part with respect to
35 that qualified property.

36 (i) This section shall remain in effect only until
37 December 1, 2003, and as of that date is repealed.
38 However, any unused credit may continue to be carried
39 forward as provided in subdivision (d), until the credit is
40 exhausted.

1 SEC. 83. Section 23646 of the Revenue and Taxation
2 Code is amended to read:

3 23646. (a) For each income year beginning on or
4 after January 1, 1995, and before January 1, 2003, there
5 shall be allowed as a credit against the “tax” (as defined
6 in Section 23036) to a qualified taxpayer for hiring a
7 qualified disadvantaged individual or a qualified
8 displaced employee during the income year for
9 employment in the LAMBRA. The credit shall be equal
10 to the sum of each of the following:

11 (1) Fifty percent of the qualified wages in the first year
12 of employment.

13 (2) Forty percent of the qualified wages in the second
14 year of employment.

15 (3) Thirty percent of the qualified wages in the third
16 year of employment.

17 (4) Twenty percent of the qualified wages in the
18 fourth year of employment.

19 (5) Ten percent of the qualified wages in the fifth year
20 of employment.

21 (b) For purposes of this section:

22 (1) “Qualified wages” means:

23 (A) That portion of wages paid or incurred by the
24 employer during the income year to qualified
25 disadvantaged individuals or qualified displaced
26 employees that does not exceed 150 percent of the
27 minimum wage.

28 (B) The total amount of qualified wages which may be
29 taken into account for purposes of claiming the credit
30 allowed under this section shall not exceed two million
31 dollars (\$2,000,000) per income year.

32 (C) Wages received during the 60-month period
33 beginning with the day the individual commences
34 employment with the taxpayer.

35 (2) “Minimum wage” means the wage established by
36 the Industrial Welfare Commission as provided for in
37 Chapter 1 (commencing with Section 1171) of Part 4 of
38 Division 2 of the Labor Code.

1 (3) “LAMBRA” means a local agency military base
2 recovery area designated in accordance with the
3 provisions of Section 7114 of the Government Code.

4 (4) “Qualified disadvantaged individual” means an
5 individual who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the
7 taxpayer during the income year are directly related to
8 the conduct of the taxpayer’s trade or business located in
9 a LAMBRA.

10 (ii) Who performs at least 50 percent of his or her
11 services for the taxpayer during the income year in the
12 LAMBRA.

13 (B) Who is hired by the employer after the
14 designation of the area as a LAMBRA in which the
15 individual’s services were primarily performed.

16 (C) Who is any of the following immediately
17 preceding the individual’s commencement of
18 employment with the taxpayer:

19 (i) An individual who has been determined eligible for
20 services under the federal Job Training Partnership Act
21 (29 U.S.C. Sec. 1501 et seq.).

22 (ii) Any voluntary or mandatory registrant under the
23 Greater Avenues for Independence Act of 1985 provided
24 for pursuant to Article 3.2 (commencing with Section
25 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare
26 and Institutions Code.

27 (iii) Any individual who has been certified eligible by
28 the Employment Development Department under the
29 federal Targeted Jobs Tax Credit Program whether or not
30 this program is in effect.

31 (5) “Qualified taxpayer” means a corporation that
32 conducts a trade or business within a LAMBRA and, for
33 the first two income years, has a net increase in jobs
34 (defined as 2,000 paid hours per employee per year) of
35 one or more employees as determined below in the
36 LAMBRA.

37 (A) The net increase in the number of jobs shall be
38 determined by subtracting the total number of full-time
39 employees (defined as 2,000 paid hours per employee per
40 year) the taxpayer employed in this state in the income

1 year prior to commencing business operations in the
2 LAMBRA from the total number of full-time employees
3 the taxpayer employed in this state during the second
4 income year after commencing business operations in the
5 LAMBRA. For taxpayers who commence doing business
6 in this state with their LAMBRA business operation, the
7 number of employees for the income year prior to
8 commencing business operations in the LAMBRA shall
9 be zero. If the taxpayer has a net increase in jobs in the
10 state, the credit shall be allowed only if one or more
11 full-time employees is employed within the LAMBRA.

12 (B) The total number of employees employed in the
13 LAMBRA shall equal the sum of both of the following:

14 (i) The total number of hours worked in the LAMBRA
15 for the taxpayer by employees (not to exceed 2,000 hours
16 per employee) who are paid an hourly wage divided by
17 2,000.

18 (ii) The total number of months worked in the
19 LAMBRA for the taxpayer by employees who are salaried
20 employees divided by 12.

21 (C) In the case of a qualified taxpayer that first
22 commences doing business in the LAMBRA during the
23 income year, for purposes of clauses (i) and (ii),
24 respectively, of subparagraph (B) the divisors “2,000”
25 and “12” shall be multiplied by a fraction, the numerator
26 of which is the number of months of the income year that
27 the taxpayer was doing business in the LAMBRA and the
28 denominator of which is 12.

29 (6) “Qualified displaced employee” means an
30 individual who satisfies all of the following requirements:

31 (A) Any civilian or military employee of a base or
32 former base that has been displaced as a result of a federal
33 base closure act.

34 (B) (i) At least 90 percent of whose services for the
35 taxpayer during the income year are directly related to
36 the conduct of the taxpayer’s trade or business located in
37 a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her
39 services for the taxpayer during the income year in a
40 LAMBRA.

1 (C) Who is hired by the employer after the
2 designation of the area in which services were performed
3 as a LAMBRA.

4 (c) (1) For purposes of this section, both of the
5 following apply:

6 (A) All employees of all corporations that are
7 members of the same controlled group of corporations
8 shall be treated as employed by a single employer.

9 (B) The credit (if any) allowable by this section to
10 each member shall be determined by reference to its
11 proportionate share of the qualified wages giving rise to
12 the credit.

13 (2) For purposes of this subdivision, “controlled group
14 of corporations” has the meaning given to that term by
15 Section 1563(a) of the Internal Revenue Code, except
16 that both of the following apply:

17 (A) “More than 50 percent” shall be substituted for “at
18 least 80 percent” each place it appears in Section
19 1563(a)(1) of the Internal Revenue Code.

20 (B) The determination shall be made without regard
21 to Section 1563(a)(4) and Section 1563(e)(3)(C) of the
22 Internal Revenue Code.

23 (3) If an employer acquires the major portion of a
24 trade or business of another employer (hereinafter in this
25 paragraph referred to as the “predecessor”) or the major
26 portion of a separate unit of a trade or business of a
27 predecessor, then, for purposes of applying this section
28 (other than subdivision (d)) for any calendar year ending
29 after that acquisition, the employment relationship
30 between an employee and an employer shall not be
31 treated as terminated if the employee continues to be
32 employed in that trade or business.

33 (d) (1) If the employment of any employee with
34 respect to whom qualified wages are taken into account
35 under subdivision (a) is terminated by the taxpayer at
36 any time during the first 270 days of that employment
37 (whether or not consecutive) or before the close of the
38 270th calendar day after the day in which that employee
39 completes 90 days of employment with the taxpayer, the
40 tax imposed by this part for the income year in which that

1 employment is terminated shall be increased by an
2 amount equal to the credit allowed under subdivision (a)
3 for that income year and all prior income years
4 attributable to qualified wages paid or incurred with
5 respect to that employee.

6 (2) (A) Paragraph (1) shall not apply to any of the
7 following:

8 (i) A termination of employment of an employee who
9 voluntarily leaves the employment of the taxpayer.

10 (ii) A termination of employment of an individual
11 who, before the close of the period referred to in
12 paragraph (1), becomes disabled to perform the services
13 of that employment, unless that disability is removed
14 before the close of that period and the taxpayer fails to
15 offer reemployment to that individual.

16 (iii) A termination of employment of an individual, if
17 it is determined under the applicable unemployment
18 compensation laws that the termination was due to the
19 misconduct of that individual.

20 (iv) A termination of employment of an individual due
21 to a substantial reduction in the trade or business
22 operations of the taxpayer.

23 (v) A termination of employment of an individual, if
24 that individual is replaced by other qualified employees
25 so as to create a net increase in both the number of
26 employees and the hours of employment.

27 (B) For purposes of paragraph (1), the employment
28 relationship between the taxpayer and an employee shall
29 not be treated as terminated by either of the following:

30 (i) A transaction to which Section 381(a) of the
31 Internal Revenue Code applies, if the employee
32 continues to be employed by the acquiring corporation.

33 (ii) A mere change in the form of conducting the trade
34 or business of the taxpayer, if the employee continues to
35 be employed in that trade or business and the taxpayer
36 retains a substantial interest in that trade or business.

37 (3) Any increase in tax under paragraph (1) shall not
38 be treated as tax imposed by this part for purposes of
39 determining the amount of any credit allowable under
40 this part.

(4) At the close of the second income year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's tax for the taxpayer's second income year.

(e) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Section 46(e) and Section 46(h) of the Internal Revenue Code shall apply.

(f) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the "tax" for the income year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest income years possible.

(h) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the "tax" for the income year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Income shall be apportioned to a LAMBRA by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) “The LAMBRA” shall be substituted for “this state.”

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the “tax” for the income year, as provided in subdivision (g).

(i) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed. However, any unused credit may continue to be carried over as provided in subdivision (g), until the credit is exhausted.

SEC. 84. Section 23649 of the Revenue and Taxation Code is amended to read:

23649. (a) (1) A qualified taxpayer shall be allowed a credit against the “tax,” as defined in Section 23036, equal to 6 percent of the qualified cost of qualified property that is placed in service in this state.

(2) In the case of any qualified costs paid or incurred on or after January 1, 1994, and prior to the first income year of the qualified taxpayer beginning on or after January 1, 1995, the credit provided under paragraph (1) shall be claimed by the qualified taxpayer on the qualified taxpayer’s return for the first income year beginning on or after January 1, 1995. No credit shall be claimed under this section on a return filed for any income year commencing prior to the qualified taxpayer’s first income year beginning on or after January 1, 1995.

(b) (1) For purposes of this section, “qualified cost” means any cost that satisfies each of the following conditions:

1 (A) Except as otherwise provided in this
2 subparagraph, is a cost paid or incurred by the qualified
3 taxpayer for the construction, reconstruction, or
4 acquisition of qualified property on or after January 1,
5 1994, and prior to the date this section ceases to be
6 operative under paragraph (2) of subdivision (i). In the
7 case of any qualified property constructed,
8 reconstructed, or acquired by the qualified taxpayer (or
9 any person related to the qualified taxpayer within the
10 meaning of Section 267 or 707 of the Internal Revenue
11 Code) pursuant to a binding contract in existence on or
12 prior to January 1, 1994, costs paid pursuant to that
13 contract shall be subject to allocation as follows: contract
14 costs shall be allocated to qualified property based on a
15 ratio of costs actually paid prior to January 1, 1994, and
16 total contract costs actually paid. "Cost paid" shall
17 include, without limitation, contractual deposits and
18 option payments. To the extent of cost allocated, whether
19 or not currently deductible or depreciable for tax
20 purposes, to a period prior to January 1, 1994, the cost shall
21 be deemed allocated to property acquired before January
22 1, 1994, and is thus not a "qualified cost."

23 (B) Except as provided in paragraph (2) of subdivision
24 (d) and subparagraph (B) of paragraph (3) of subdivision
25 (d), is an amount upon which the qualified taxpayer has
26 paid, directly or indirectly as a separately stated contract
27 amount or as determined from the records of the
28 qualified taxpayer, sales or use tax under Part 1
29 (commencing with Section 6001).

30 (C) Is an amount properly chargeable to the capital
31 account of the qualified taxpayer.

32 (2) (A) For purposes of this subdivision, any contract
33 entered into on or after January 1, 1994, that is a successor
34 or replacement contract to a contract that was binding
35 prior to January 1, 1994, shall be treated as a binding
36 contract in existence prior to January 1, 1994.

37 (B) If a successor or replacement contract is entered
38 into on or after January 1, 1994, and the subject of the
39 successor or replacement contract relates both to
40 amounts for the construction, reconstruction, or

1 acquisition of qualified property described in the original
2 binding contract and to costs for the construction,
3 reconstruction, or acquisition of qualified property not
4 described in the original binding contract, then the
5 portion of those amounts described in the successor or
6 replacement contract that were not described in the
7 original binding contract shall not be treated as costs paid
8 or incurred pursuant to a binding contract in existence on
9 or prior to January 1, 1994, under subparagraph (A) of
10 paragraph (1).

11 (3) (A) For purposes of this section, an option
12 contract in existence prior to January 1, 1994, under which
13 a qualified taxpayer (or any other person related to the
14 qualified taxpayer within the meaning of Section 267 or
15 707 of the Internal Revenue Code) had an option to
16 acquire qualified property, shall be treated as a binding
17 contract under the rules in paragraph (2). For purposes
18 of this subparagraph, an option contract shall not include
19 an option under which the option holder will forfeit an
20 amount less than 10 percent of the fixed option price in
21 the event the option is not exercised.

22 (B) For purposes of this section, a contract shall be
23 treated as binding even if the contract is subject to a
24 condition.

25 (c) (1) For purposes of this section, “qualified
26 taxpayer” means any taxpayer engaged in those lines of
27 business described in Codes 2011 to 3999, inclusive, of the
28 Standard Industrial Classification (SIC) Manual
29 published by the United States Office of Management
30 and Budget, 1987 edition.

31 (2) In the case of any passthrough entity, the
32 determination of whether a taxpayer is a qualified
33 taxpayer shall be made at the entity level and any credit
34 under this section or Section 17053.49 shall be allowed to
35 the passthrough entity and passed through to the partners
36 or shareholders in accordance with applicable provisions
37 of Part 10 (commencing with Section 17001) or Part 11
38 (commencing with Section 23001). For purposes of this
39 paragraph, the term “passthrough entity” means any
40 partnership or S corporation.

(3) The Franchise Tax Board may prescribe regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the effect of this section through splitups, shell corporations, partnerships, tiered ownership structures, sale-leaseback transactions, or otherwise.

(d) For purposes of this section, “qualified property” means property that is described as either of the following:

(1) Tangible personal property that is defined in Section 1245(a) of the Internal Revenue Code for use by a qualified taxpayer in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, that is primarily used for any of the following:

(A) For the manufacturing, processing, refining, fabricating, or recycling of property, beginning at the point at which any raw materials are received by the qualified taxpayer and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(B) In research and development.

(C) To maintain, repair, measure, or test any property described in this paragraph.

(D) For pollution control that meets or exceeds standards established by the state or by any local or regional governmental agency within the state.

(E) For recycling.

(2) The value of any capitalized labor costs that are directly allocable to the construction or modification of property described in paragraph (1).

(3) In the case of any qualified taxpayer engaged in manufacturing activities described in SIC Code 357 or 367, those activities related to biotechnology described in SIC Code 8731, those activities related to biopharmaceutical establishments only that are described in SIC Codes 2833 to 2836, inclusive, those

1 activities related to space vehicles and parts described in
2 SIC Codes 3761 to 3769, inclusive, those activities related
3 to space satellites and communications satellites and
4 equipment described in SIC Codes 3663 and 3812 (but
5 only with respect to “qualified property” that is placed in
6 service on or after January 1, 1996), or those activities
7 related to semiconductor equipment manufacturing
8 described in SIC Code 3559 (but only with respect to
9 “qualified property” that is placed in service on or after
10 January 1, 1997), “qualified property” also includes the
11 following:

12 (A) Special purpose buildings and foundations that are
13 constructed or modified for use by the qualified taxpayer
14 primarily in a manufacturing, processing, refining, or
15 fabricating process, or as a research or storage facility
16 primarily used in connection with a manufacturing
17 process.

18 (B) The value of any capitalized labor costs that are
19 directly allocable to the construction or modification of
20 special purpose buildings and foundations that are used
21 primarily in the manufacturing, processing, refining, or
22 fabricating process, or as a research or storage facility
23 primarily used in connection with a manufacturing
24 process.

25 (C) (i) For purposes of this paragraph, “special
26 purpose building and foundation” means only a building
27 and the foundation immediately underlying the building
28 that is specifically designed and constructed or
29 reconstructed for the installation, operation, and use of
30 specific machinery and equipment with a special
31 purpose, which machinery and equipment, after
32 installation, will become affixed to or a fixture of the real
33 property, and the construction or reconstruction of which
34 is specifically designed and used exclusively for the
35 specified purposes as set forth in subparagraph (A)
36 (“qualified purpose”).

37 (ii) A building is specifically designed and constructed
38 or modified for a qualified purpose if it is not economic to
39 design and construct the building for the intended



1 purpose and then use the structure for a different
2 purpose.

3 (iii) For purposes of clause (i) and clause (vi), a
4 building is used exclusively for a qualified purpose only if
5 its use does not include a use for which it was not
6 specifically designed and constructed or modified.
7 Incidental use of a building for nonqualified purposes
8 does not preclude the building from being a special
9 purpose building. “Incidental use” means a use which is
10 both related and subordinate to the qualified purpose. It
11 will be conclusively presumed that a use is not
12 subordinate if more than one-third of the total usable
13 volume of the building is devoted to a use which is not a
14 qualified purpose.

15 (iv) In the event an entire building does not qualify as
16 a special purpose building, a taxpayer may establish that
17 a portion of a building, and the foundation immediately
18 underlying the portion, qualifies for treatment as a special
19 purpose building and foundation if the portion satisfies all
20 of the definitional provisions in this subparagraph.

21 (v) To the extent that a building is not a special
22 purpose building as defined above, but a portion of the
23 building qualifies for treatment as a special purpose
24 building, then all equipment which exclusively supports
25 the qualified purpose occurring within that portion and
26 which would qualify as Internal Revenue Code Section
27 1245 property if it were not a fixture or affixed to the
28 building shall be treated as a cost of the portion of the
29 building which qualifies for treatment as a special
30 purpose building.

31 (vi) Buildings and foundations which do not meet the
32 definition of a special purpose building and foundation set
33 forth above include, but are not limited to: buildings
34 designed and constructed or reconstructed principally to
35 function as a general purpose manufacturing, industrial,
36 or commercial building; research facilities that are used
37 primarily prior to or after, or prior to and after, the
38 manufacturing process; or storage facilities that are used
39 primarily prior to or after, or prior to and after,
40 completion of the manufacturing process. A research

1 facility shall not be considered to be used primarily prior
2 to or after, or prior to and after, the manufacturing
3 process if its purpose and use relate exclusively to the
4 development and regulatory approval of the
5 manufacturing process for specific biopharmaceutical
6 products. A research facility which is used primarily in
7 connection with the discovery of an organism from which
8 a biopharmaceutical product or process is developed does
9 not meet the requirements of the preceding sentence.

10 (4) Subject to the provisions in subparagraph (B) of
11 paragraph (1) of subdivision (b), qualified property also
12 includes computer software that is primarily used for
13 those purposes set forth in paragraph (1) of this
14 subdivision.

15 (5) Qualified property does not include any of the
16 following:

17 (A) Furniture.

18 (B) Facilities used for warehousing purposes after
19 completion of the manufacturing process.

20 (C) Inventory.

21 (D) Equipment used in the extraction process.

22 (E) Equipment used to store finished products that
23 have completed the manufacturing process.

24 (F) Any tangible personal property that is used in
25 administration, general management, or marketing.

26 (G) Any vehicle for which a credit is claimed pursuant
27 to Section 17052.11 or 23603.

28 (e) For purposes of this section:

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

38 (2) "Fabricating" means to make, build, create,
39 produce, or assemble components or property to work in
40 a new or different manner.

1 (3) “Manufacturing” means the activity of converting
2 or conditioning property by changing the form,
3 composition, quality, or character of the property for
4 ultimate sale at retail or use in the manufacturing of a
5 product to be ultimately sold at retail. Manufacturing
6 includes any improvements to tangible personal property
7 that result in a greater service life or greater functionality
8 than that of the original property.

9 (4) “Other biotechnology activities” means activities
10 consisting of the application of recombinant DNA
11 technology to produce commercial products, as well as
12 activities regarding pharmaceutical deliver systems
13 designed to provide a measure of control over the rate,
14 duration, and site of pharmaceutical delivery.

15 (5) “Primarily” means tangible personal property
16 used 50 percent or more of the time in an activity
17 described in subdivision (d).

18 (6) “Process” means the period beginning at the point
19 at which any raw materials are received by the qualified
20 taxpayer and introduced into the manufacturing,
21 processing, refining, fabricating, or recycling activity of
22 the qualified person and ending at the point at which the
23 manufacturing, processing, refining, fabricating, or
24 recycling activity of the qualified taxpayer has altered
25 tangible personal property to its completed form,
26 including packaging, if required. Raw materials shall be
27 considered to have been introduced into the process
28 when the raw materials are stored on the same premises
29 where the qualified taxpayer’s manufacturing,
30 processing, refining, fabricating, or recycling activity is
31 conducted. Raw materials that are stored on premises
32 other than where the qualified taxpayer’s manufacturing,
33 processing, refining, fabricating, or recycling activity is
34 conducted, shall not be considered to have been
35 introduced into the manufacturing, processing, refining,
36 fabricating, or recycling process.

37 (7) “Processing” means the physical application of the
38 materials and labor necessary to modify or change the
39 characteristics of property.

1 (8) “Refining” means the process of converting a
2 natural resource to an intermediate or finished product.

3 (9) “Research and development” means those
4 activities that are described in Section 174 of the Internal
5 Revenue Code or in any regulations thereunder.

6 (10) “Small business” means a qualified taxpayer that
7 meets any of the following requirements during the
8 income year for which the credit is allowed:

9 (A) Has gross receipts of less than fifty million dollars
10 (\$50,000,000).

11 (B) Has net assets of less than fifty million dollars
12 (\$50,000,000).

13 (C) Has a total credit of less than one million dollars
14 (\$1,000,000).

15 (D) For income years beginning on or after January 1,
16 1997, is engaged in biopharmaceutical activities or other
17 biotechnology activities that are described in Codes 2833
18 to 2836, inclusive, of the Standard Industrial Classification
19 (SIC) Manual published by the United States Office of
20 Management and Budget, 1987 edition, and has not
21 received regulatory approval for any product from the
22 United States Food and Drug Administration.

23 (f) The credit allowed under subdivision (a) shall
24 apply to qualified property that is acquired by or subject
25 to lease by a qualified taxpayer, subject to the following
26 special rules:

27 (1) A lessor of qualified property, irrespective of
28 whether the lessor is a qualified taxpayer, shall not be
29 allowed the credit provided under subdivision (a) with
30 respect to any qualified property leased to another
31 qualified taxpayer.

32 (2) For purposes of paragraphs (2) and (3) of
33 subdivision (b), “binding contract” shall include any
34 lease agreement with respect to the qualified property.

35 (3) (A) For purposes of determining the qualified
36 cost paid or incurred by a lessee in any leasing transaction
37 that is not treated as a sale under Part 1 (commencing
38 with Section 6001), the following rules shall apply:

1 (i) Except as provided by subparagraph (C) of this
2 paragraph, subparagraphs (A) and (C) of paragraph (1)
3 of subdivision (b) shall not apply.

4 (ii) Except as provided in subparagraph (B) and
5 clause (iii), the “qualified cost” upon which the lessee
6 shall compute the credit provided under this section shall
7 be equal to the original cost to the lessor (within the
8 meaning of Section 24912) of the qualified property that
9 is the subject of the lease.

10 (iii) Except as provided in clause (iv), the
11 requirement of subparagraph (B) of paragraph (1) of
12 subdivision (b) shall be treated as satisfied only if the
13 lessor has made a timely election under either Section
14 6094.1 or subdivision (d) of Section 6244 and has paid sales
15 tax reimbursement or use tax measured by the purchase
16 price of the qualified property (within the meaning of
17 paragraph (5) of subdivision (g) of Section 6006). For
18 purposes of this subdivision and clause (iv), the amount
19 of original cost to the lessor which may be taken into
20 account under clause (ii) shall not exceed the purchase
21 price upon which sales tax reimbursement or use tax has
22 been paid under the preceding sentence or under clause
23 (iv).

24 (iv) With respect to leases entered into between
25 January 1, 1994, and the effective date of this clause, the
26 lessor may elect to pay use tax measured by the purchase
27 price of the property by reporting and paying the tax with
28 the return of the lessor for the fourth calendar quarter of
29 1994. In computing the use tax under the preceding
30 sentence, a credit shall be allowed under Part 1
31 (commencing with Section 6001) for all sales or use tax
32 previously paid on the lease.

33 (B) For purposes of applying subparagraph (A) only,
34 the following special rules shall apply:

35 (i) The original cost to the lessor of the qualified
36 property shall be reduced by the amount of any original
37 cost of that property that was taken into account by any
38 predecessor lessee in computing the credit allowable
39 under this section.

(ii) Clause (i) shall not apply in any case where the predecessor lessee was required to recapture the credit provided under this section pursuant to the provisions of subdivision (g).

(iii) For purposes of this section only, in any case where a successor lessor has acquired qualified property from a predecessor lessor in a transaction not treated as a sale under Part 1 (commencing with Section 6001), the original cost to the successor lessor of the qualified property shall be reduced by the amount of the original cost of the qualified property that was taken into account by any lessee of the predecessor lessor in computing the credit allowable under this section.

(C) In determining the original cost of any qualified property under this paragraph, only amounts paid or incurred by the lessor on or after January 1, 1994, and prior to the date this section ceases to be operative under paragraph (2) of subdivision (i), shall be taken into account. In the case of any qualified property constructed, reconstructed, or acquired by a lessor pursuant to a binding contract in existence on or prior to January 1, 1994, the allocation rule specified in subparagraph (A) of paragraph (1) of subdivision (b) shall apply in determining the original cost to the lessor of qualified property.

(D) Notwithstanding subparagraph (A), in the case of any leasing transaction for which the lessee is allowed the credit under this section and thereafter the lessee (or any party related to the lessee within the meaning of Section 267 or 318 of the Internal Revenue Code) acquires the qualified property from the lessor (or any successor lessor) within one year from the date the qualified property is first used by the lessee under the terms of the lease, the lessee's (or related party's) acquisition of the qualified property from the lessor (or successor lessor) shall be treated as a disposition by the lessee of the qualified property that was subject to the lease under subdivision (g).

(4) For purposes of determining the qualified cost paid or incurred by a lessee in any leasing transaction that

1 is treated as a sale under Part 1 (commencing with
2 Section 6001), the following rules shall apply:

3 (A) Subparagraph (A) of paragraph (1) of subdivision
4 (b) shall be applied by substituting the term “purchase”
5 for the term “construction, reconstruction, or
6 acquisition.”

7 (B) Subparagraph (C) of paragraph (1) of subdivision
8 (b) shall apply.

9 (C) The requirement of subparagraph (B) of
10 paragraph (1) of subdivision (b) shall be treated as
11 satisfied at the time that either the lessor or the qualified
12 taxpayer pays sales or use tax under Part 1 (commencing
13 with Section 6001).

14 (5) (A) In the case of any leasing transaction
15 described in paragraph (3), the lessor shall provide a
16 statement to the lessee specifying the amount of the
17 lessor’s original cost of the qualified property and the
18 amount of that cost upon which a sales or use tax was paid
19 within 45 days after the close of the lessee’s taxable year
20 in which the credit is allowable to the lessee under this
21 section.

22 (B) The statement required under subparagraph (A)
23 shall be made available to the Franchise Tax Board upon
24 request.

25 (g) No credit shall be allowed if the qualified property
26 is removed from the state, is disposed of to an unrelated
27 party, or is used for any purpose not qualifying for the
28 credit provided in this section in the same taxable year in
29 which the qualified property is first placed in service in
30 this state. If any qualified property for which a credit is
31 allowed pursuant to this section is thereafter removed
32 from this state, disposed of to an unrelated party, or used
33 for any purpose not qualifying for the credit provided in
34 this section within one year from the date the qualified
35 property is first placed in service in this state, the amount
36 of the credit allowed by this section for that qualified
37 property shall be recaptured by adding that credit
38 amount to the net tax of the qualified taxpayer for the
39 taxable year in which the qualified property is disposed
40 of, removed, or put to an ineligible use.

1 (h) In the case where the credit allowed by this section
2 exceeds the “tax,” the excess may be carried over to
3 reduce the “tax” in the following year, and succeeding
4 years as follows:

5 (1) Except as provided in paragraph (2), for the seven
6 succeeding years if necessary, until the credit is
7 exhausted.

8 (2) In the case of a small business, for the nine
9 succeeding years, if necessary, until the credit is
10 exhausted.

11 (i) (1) This section shall remain in effect until the
12 date specified in paragraph (2) on which date this section
13 shall cease to be operative, and as of that date is repealed.
14 However, any unused credit may continue to be carried
15 forward, as provided in subdivision (h), until the credit
16 is exhausted.

17 (2) (A) This section shall cease to be operative on
18 January 1, 2001, or on January 1 of the earliest year
19 thereafter, if the total employment in this state, as
20 determined by the Employment Development
21 Department on the preceding January 1, does not exceed
22 by 100,000 jobs the total employment in this state on
23 January 1, 1994. The department shall report to the
24 Legislature annually with respect to the determination
25 required by the preceding sentence.

26 (B) For purposes of this paragraph, “total
27 employment” means the total employment in the
28 manufacturing sector, excluding employment in the
29 aerospace sector.

30 (j) The amendments made by the act adding this
31 subdivision shall be operative for income years beginning
32 on or after January 1, 1997, except as provided in
33 paragraph (3) of subdivision (d).

34 SEC. 85. Section 23731 of the Revenue and Taxation
35 Code is amended to read:

36 23731. Every organization or trust exempt under this
37 chapter, except as provided in this article, is subject to the
38 tax imposed upon its unrelated business taxable income
39 as defined in Section 23732.

1 (a) Corporations (other than banks and financial
2 corporations), associations, and business trusts are subject
3 to the tax rates imposed under Section 23151 or Section
4 23501.

5 (b) Trusts will be subject to the tax rates imposed by
6 subdivision (e) of Section 17041.

7 This section applies to income years beginning after
8 December 31, 1970.

9 SEC. 86. Section 23802 of the Revenue and Taxation
10 Code is amended to read:

11 23802. (a) Section 1363(a) of the Internal Revenue
12 Code, relating to the taxability of an S corporation, shall
13 not be applicable.

14 (b) Corporations qualifying under this chapter shall
15 continue to be subject to the taxes imposed under
16 Chapter 2 (commencing with Section 23101) and
17 Chapter 3 (commencing with Section 23501), except as
18 follows:

19 (1) The tax imposed under Section 23151 or 23501 shall
20 be imposed at a rate of $1\frac{1}{2}$ percent rather than the rate
21 specified in those sections.

22 (2) In the case of an “S corporation” which is also a
23 financial corporation, the rate of tax specified in
24 paragraph (1) shall be increased by the excess of the rate
25 imposed under Section 23183 over the rate imposed
26 under Section 23151.

27 (c) An “S corporation” shall be subject to the
28 minimum franchise tax imposed under Section 23153.

29 (d) (1) For purposes of subdivision (b), an “S
30 corporation” shall be allowed a deduction under Section
31 24416 or 24416.1 (relating to net operating loss
32 deductions), but only with respect to losses incurred
33 during periods in which the corporation had in effect a
34 valid election to be treated as an “S corporation” for
35 purposes of this part.

36 (2) Section 1371(b) of the Internal Revenue Code,
37 relating to denial of carryovers between “C years” and “S
38 years,” shall apply for purposes of the tax imposed under
39 subdivision (b), except as provided in paragraph (1).

1 (3) The provisions of this subdivision shall not affect
2 the amount of any item of income or loss computed in
3 accordance with the provisions of Section 1366 of the
4 Internal Revenue Code, relating to passthrough items to
5 shareholders.

6 (4) For purposes of subdivision (b) of Section 17276,
7 relating to limitations on loss carryovers, losses passed
8 through to shareholders of an “S corporation,” to the
9 extent otherwise allowable without application of that
10 subdivision, shall be fully included in the net operating
11 loss of that shareholder and then that subdivision shall be
12 applied to the entire net operating loss.

13 (e) For purposes of computing the taxes specified in
14 subdivision (b), an “S corporation” shall be allowed a
15 deduction from income for built-in gains and passive
16 investment income for which a tax has been imposed
17 under this part in accordance with the provisions of
18 Section 1374 of the Internal Revenue Code, relating to tax
19 imposed on certain built-in gains, or Section 1375 of the
20 Internal Revenue Code, relating to tax imposed on
21 passive investment income.

22 (f) For purposes of computing taxes imposed under
23 this part, as provided in subdivision (b)—

24 (1) An “S corporation” shall compute its deductions
25 for amortization and depreciation in accordance with the
26 provisions of Part 10 (commencing with Section 17001) of
27 Division 2.

28 (2) The provisions of Section 465 of the Internal
29 Revenue Code, relating to limitation of deductions to the
30 amount at risk, shall be applied in the same manner as in
31 the case of an individual.

32 (3) (A) The provisions of Section 469 of the Internal
33 Revenue Code, relating to limitations on passive activity
34 losses and credits, shall be applied in the same manner as
35 in the case of an individual. For purposes of the tax
36 imposed under Section 23151 or 23501, as modified by this
37 section, material participation shall be determined in
38 accordance with Section 469(h) of the Internal Revenue
39 Code, relating to certain closely held “C corporations”
40 and personal service corporations.

(B) For purposes of this paragraph, the “adjusted gross income” of the “S corporation” shall be equal to its “net income,” as determined under Section 24341 with the modifications required by this subdivision, except that no deduction shall be allowed for contributions allowed by Section 24357.

(4) The exclusion provided under Section 18152.5 shall not be allowed to an “S corporation.”

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19102 in lieu of Section 6601 of the Internal Revenue Code.

SEC. 87. Section 23809 of the Revenue and Taxation Code is amended to read:

23809. There is hereby imposed a tax on built-in gains attributable to California sources, determined in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, as modified by this section.

(a) (1) The rate of tax specified in Section 1374(b)(1) of the Internal Revenue Code shall be equal to the rate of tax imposed under Section 23151 in lieu of the rate of tax specified in Section 11(b) of the Internal Revenue Code.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(b) The provisions of Section 1374(b)(3) of the Internal Revenue Code, relating to credits, shall be modified to provide that the tax imposed under subdivision (a) shall not be reduced by any credits allowed under this part.

(c) The provisions of Section 1374(b)(4) of the Internal Revenue Code, relating to coordination with Section 1201(a), shall not be applicable.

(d) In the case of corporation which is subject to the provisions of former Section 1374 of the Internal Revenue

1 Code (prior to amendment by Public Law 99-514), the
2 provisions of that section shall be modified to provide
3 that:

4 (1) The tax specified in Section 1374(b)(1) of the
5 Internal Revenue Code shall be equal to the rate of tax
6 imposed under Section 23151 in lieu of the rate of tax
7 specified in Section 11(b) of the Internal Revenue Code.

8 (2) In the case of an “S corporation” which is also a
9 financial corporation, the rate of tax specified in
10 paragraph (1) shall be increased by the excess of the rate
11 imposed under Section 23183 over the rate imposed
12 under Section 23151.

13 SEC. 88. Section 23811 of the Revenue and Taxation
14 Code is amended to read:

15 23811. Except as otherwise provided in this section,
16 there is hereby imposed a tax on passive investment
17 income attributable to California sources, determined in
18 accordance with the provisions of Section 1375 of the
19 Internal Revenue Code, relating to tax imposed on
20 passive investment income, as modified by this section.

21 (a) The tax imposed under this section shall not be
22 imposed on an “S corporation” that has no excess net
23 passive income for federal purposes determined in
24 accordance with Section 1375 of the Internal Revenue
25 Code.

26 (b) (1) The rate of tax shall be equal to the rate of tax
27 imposed under Section 23151 in lieu of Section 11(b) of
28 the Internal Revenue Code.

29 (2) In the case of an “S corporation” which is also a
30 financial corporation, the rate of tax specified in
31 paragraph (1) shall be increased by the excess of the rate
32 imposed under Section 23183 over the rate imposed
33 under Section 23151.

34 (c) The provisions of Section 1375(c)(1) of the
35 Internal Revenue Code, relating to credits, shall be
36 modified to provide that the tax imposed under
37 subdivision (a) shall not be reduced by any credits
38 allowed under this part.

39 (d) The term “subchapter C earnings and profits” as
40 used in Sections 1362(d)(3) and 1375 of the Internal

1 Revenue Code shall mean the subchapter C earnings and
2 profits of the corporation attributable to California
3 sources determined under this part, modified as provided
4 in subdivision (e).

5 (e) (1) In the case of a corporation which elects to be
6 treated as an “S corporation” for purposes of this part for
7 its first income year beginning in 1987, or for its first
8 income year for which it has in effect a valid federal S
9 election, there shall be allowed as a deduction in
10 determining that corporation’s subchapter C earnings
11 and profits at the close of any income year the amount of
12 any consent dividend (as provided in paragraph (2)) paid
13 after the close of that income year.

14 (2) In the event there is a determination that a
15 corporation described in paragraph (1) has subchapter C
16 earnings and profits at the close of any income year, that
17 corporation shall be entitled to distribute a consent
18 dividend to its shareholders. The amount of the consent
19 dividend shall not exceed the difference between the
20 corporation’s subchapter C earnings and profits
21 determined under subdivision (d) at the close of the
22 income year with respect to which the determination is
23 made and the corporation’s subchapter C earnings and
24 profits for federal income tax purposes at the same date.
25 A consent dividend must be paid within 90 days of the
26 date of the determination that the corporation has
27 subchapter C earnings and profits. For this purpose, the
28 date of a determination means the effective date of a
29 closing agreement pursuant to Section 19441, the date an
30 assessment of tax imposed by this section becomes final,
31 or the date of execution by the corporation of an
32 agreement with the Franchise Tax Board relating to
33 liability for the tax imposed by this section. For purposes
34 of Part 10 and this part, a corporation must make the
35 election provided in Section 1368(e)(3) of the Internal
36 Revenue Code for any consent dividend.

37 (3) If a corporation distributes a consent dividend, it
38 shall claim the deduction provided in paragraph (1) by
39 filing a claim therefor with the Franchise Tax Board



1 within 120 days of the date of the determination specified
2 in paragraph (2).

3 (4) The collection of tax imposed by this section from
4 a corporation described in paragraph (2) shall be stayed
5 for 120 days after the date of the determination specified
6 in paragraph (2). If a claim is filed pursuant to paragraph
7 (3), collection of such tax shall be further stayed until the
8 date the claim is acted upon by the Franchise Tax Board.

9 (5) If a claim is filed pursuant to paragraph (3), the
10 running of the statute of limitations on the making of
11 assessments and actions for collection of the tax imposed
12 by this section shall be suspended for a period of two years
13 after the date of the determination specified in paragraph
14 (2).

15 SEC. 89. Section 24346 of the Revenue and Taxation
16 Code is amended to read:

17 24346. (a) For purposes of subdivision (a) of Section
18 24345, if real property is sold during any real property tax
19 year, then—

20 (1) So much of the real property tax as is properly
21 allocable to that part of the tax year which ends on the day
22 before the date of the sale shall be treated as a tax imposed
23 on the seller; and

24 (2) So much of that tax as is properly allocable to that
25 part of that year which begins on the date of the sale shall
26 be treated as a tax imposed on the purchaser.

27 (b) (1) In the case of any sale of real property; if—

28 (A) A corporation may not, by reason of its method
29 of accounting, deduct any amount for taxes unless paid;
30 and

31 (B) The other party to the sale is (under the law
32 imposing the real property tax) liable for the real
33 property tax for the real property tax year;

34 then for purposes of subdivision (a) of Section 24345 the
35 corporation shall be treated as having paid, on the date of
36 the sale, so much of the tax as, under subdivision (a), is
37 treated as imposed on the corporation. For purposes of
38 the preceding sentence, if neither party is liable for the
39 tax, then the party holding the property at the time the
40 tax becomes a lien on the property shall be considered

1 liable for the real property tax for the real property tax
2 year.

3 (2) Subdivision (a) shall apply to income years
4 beginning after December 31, 1960, but only in the case
5 of sales after December 31, 1960.

6 (3) Subdivision (a) shall not apply to any real property
7 tax, to the extent that the tax was allowable as a deduction
8 under the Bank and Corporation Tax Law of 1954 to the
9 seller for an income year which began before January 1,
10 1961.

11 (4) In the case of any sale of real property, if the bank
12 or corporation's net income for the income year during
13 which the sale occurs is computed under an accrual
14 method of accounting, and if no election under
15 subdivision (b) of Section 24681 (relating to the accrual
16 of real property taxes) applies, then, for purposes of
17 subdivision (a) of Section 24345, that portion of the tax
18 that—

19 (A) Is treated, under subdivision (a), as imposed on
20 the corporation; and

21 (B) May not, by reason of the corporation's method of
22 accounting, be deducted by the corporation for any
23 income year, shall be treated as having accrued on the
24 date of the sale.

25 SEC. 90. Section 24356.4 of the Revenue and Taxation
26 Code is amended to read:

27 24356.4. (a) A taxpayer may elect to treat the cost of
28 any Section 24356.4 property as an expense that is not
29 chargeable to capital account. Any cost so treated shall be
30 allowed as a deduction for the income year in which the
31 taxpayer places the Section 24356.4 property in service.

32 (b) (1) An election made under this section for any
33 income year shall meet both of the following
34 requirements:

35 (A) Specify the items of Section 24356.4 property to
36 which the election applies and the cost of each of those
37 items that is to be taken into account under subdivision
38 (a).

39 (B) Be made on the taxpayer's original return of the
40 tax imposed by this part for the income year.

1 (2) Any election made under this section, and any
2 specifications contained in that election, may not be
3 revoked except with the consent of the Franchise Tax
4 Board.

5 (c) For purposes of this section:

6 (1) “Taxpayer” means a corporation engaged in a
7 trade or business within the Los Angeles Revitalization
8 Zone designated pursuant to Section 7102 of the
9 Government Code.

10 (2) “Section 24356.4 property” means any recovery
11 property that is all of the following:

12 (A) Section 1245 property (as defined in Section
13 1245(a)(3) of the Internal Revenue Code).

14 (B) Purchased and placed in service by the taxpayer
15 on or after September 1, 1992, and before the zone
16 expiration date.

17 (C) Used exclusively in a trade or business conducted
18 within the Los Angeles Revitalization Zone designated
19 pursuant to Section 7102 of the Government Code.

20 (3) “Purchase” means any acquisition of property, but
21 only if all of the following apply:

22 (A) The property is not acquired from a person whose
23 relationship to the person acquiring it would result in the
24 disallowance of losses under Section 267 or 707(b) of the
25 Internal Revenue Code (but, in applying Sections 267(b)
26 and 267(c) of the Internal Revenue Code, Section
27 267(c)(4) of the Internal Revenue Code shall be treated
28 as providing that the family of an individual shall include
29 only his or her spouse, ancestors, and lineal descendants).

30 (B) The property is not acquired by one member of an
31 affiliated group from another member of the same
32 affiliated group.

33 (C) The basis of the property in the hands of the
34 person acquiring it is not determined in whole or in part
35 by reference to the adjusted basis of the property in the
36 hands of the person from whom acquired.

37 (4) “Zone expiration date” means the date the Los
38 Angeles Revitalization Zone designation expires, is
39 repealed, or becomes inoperative pursuant to Section
40 7102, 7103, or 7104 of the Government Code.

(d) This section does not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(e) This section applies only to Section 24356.4 property that is used by the taxpayer exclusively in a trade or business conducted in the Los Angeles Revitalization Zone.

(f) Any amount deducted under subdivision (a) with respect to Section 24356.4 property that ceases to be used in the taxpayer's trade or business within the Los Angeles Revitalization Zone at any time before the close of the second income year after the property was placed in service shall be included in income in the income year in which property ceases to be so used.

(g) This section shall be inoperative on the first day of the income year beginning on or after the determination date, and each income year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code.

(h) This section shall remain in effect only until December 1, 1998, and as of that date is repealed.

SEC. 91. Section 24356.8 of the Revenue and Taxation Code is amended to read:

24356.8. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2003, a taxpayer may elect to treat the cost of any Section 24356.8 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the income year in which the Section 24356.8 property is placed in service.

1 (b) (1) An election under this section for any income
2 year shall meet both of the following requirements:

3 (A) Specify the items of Section 24356.8 property to
4 which the election applies and the portion of the cost of
5 each of those items that is to be taken into account under
6 subdivision (a).

7 (B) Be made on the taxpayer's return of the tax
8 imposed by this part for the income year.

9 (2) Any election made under this section, and any
10 specification contained in that election, may not be
11 revoked except with the consent of the Franchise Tax
12 Board.

13 (c) (1) For purposes of this section, "Section 24356.8
14 property" means any recovery property that is Section
15 1245 property (as defined in Section 1245(a)(3) of the
16 Internal Revenue Code) and that the taxpayer acquires
17 by purchase for exclusive use in a trade or business
18 conducted within a LAMBRA.

19 (2) For purposes of paragraph (1), "purchase" means
20 any acquisition of property, but only if all of the following
21 apply:

22 (A) The property is not acquired from a person whose
23 relationship to the person acquiring it would result in the
24 disallowance of losses under Section 267 or 707(b) of the
25 Internal Revenue Code (but, in applying Sections 267(b)
26 and 267(c) of the Internal Revenue Code for purposes of
27 this section, Section 267(c)(4) of the Internal Revenue
28 Code shall be treated as providing that the family of an
29 individual shall include only his or her spouse, ancestors,
30 and lineal descendants).

31 (B) The property is not acquired by one component
32 member of an affiliated group from another component
33 member of the same affiliated group.

34 (C) The basis of the property in the hands of the
35 person acquiring it is not determined in whole or in part
36 by reference to the adjusted basis of that property in the
37 hands of the person from whom acquired.

38 (3) For purposes of this section, the cost of property
39 does not include so much of the basis of that property as

1 is determined by reference to the basis of other property
2 held at any time by the person acquiring that property.

3 (4) This section shall not apply to any property for
4 which the taxpayer may not make an election for the
5 income year under Section 179 of the Internal Revenue
6 Code because of the provisions of Section 179(d) of the
7 Internal Revenue Code.

8 (5) For purposes of subdivision (b), both of the
9 following apply:

10 (A) All members of an affiliated group shall be treated
11 as one taxpayer.

12 (B) The taxpayer shall apportion the dollar limitation
13 contained in subdivision (f) among the component
14 members of the affiliated group in whatever manner the
15 board shall by regulations prescribe.

16 (6) For purposes of paragraphs (2) and (5), “affiliated
17 group” has the meaning assigned to it by Section 1504 of
18 the Internal Revenue Code, except that, for these
19 purposes, the phrase “more than 50 percent” shall be
20 substituted for the phrase “at least 80 percent” each place
21 it appears in Section 1504(a) of the Internal Revenue
22 Code.

23 (7) This section shall not apply to any property
24 described in Section 168(f) of the Internal Revenue
25 Code.

26 (8) In the case of an S corporation, the dollar limitation
27 contained in subdivision (f) shall be applied at the entity
28 level and at the shareholder level.

29 (d) For purposes of this section:

30 (1) “LAMBRA” means a local agency military base
31 recovery area designated in accordance with the
32 provisions of Section 7114 of the Government Code.

33 (2) “Taxpayer” means a corporation that conducts a
34 trade or business within a LAMBRA and, for the first two
35 income years, has a net increase in jobs (defined as 2,000
36 paid hours per employee per year) of one or more
37 employees in the LAMBRA.

38 (A) The net increase in the number of jobs shall be
39 determined by subtracting the total number of full-time
40 employees (defined as 2,000 paid hours per employee per

1 year) the taxpayer employed in this state in the income
2 year prior to commencing business operations in the
3 LAMBRA from the total number of full-time employees
4 the taxpayer employed in this state during the second
5 income year after commencing business operations in the
6 LAMBRA. For taxpayers who commence doing business
7 in this state with their LAMBRA business operation, the
8 number of employees for the income year prior to
9 commencing business operations in the LAMBRA shall
10 be zero. If the taxpayer has a net increase in jobs in the
11 state, the credit shall be allowed only if one or more
12 full-time employees is employed within the LAMBRA.

13 (B) The total number of employees employed in the
14 LAMBRA shall equal the sum of both of the following:

15 (i) The total number of hours worked in the LAMBRA
16 for the taxpayer by employees (not to exceed 2,000 hours
17 per employee) who are paid an hourly wage divided by
18 2,000.

19 (ii) The total number of months worked in the
20 LAMBRA for the taxpayer by employees who are salaried
21 employees divided by 12.

22 (C) In the case of a taxpayer that first commences
23 doing business in the LAMBRA during the income year,
24 for purposes of clauses (i) and (ii), respectively, of
25 subparagraph (B) the divisors “2,000” and “12” shall be
26 multiplied by a fraction, the numerator of which is the
27 number of months of the income year that the taxpayer
28 was doing business in the LAMBRA and the denominator
29 of which is 12.

30 (e) Any taxpayer who elects to be subject to this
31 section shall not be entitled to claim additional
32 depreciation pursuant to Section 24356 with respect to
33 any property that constitutes Section 24356.8 property.

34 (f) The deduction allowable under subdivision (a) for
35 any income year shall not exceed the following applicable
36 amount for the income year of the designation of a
37 LAMBRA and each income year thereafter:

38

The applicable amount is:

Income year of designation	\$ 5,000
1st income year thereafter	5,000
2nd income year thereafter	7,500
3rd income year thereafter	7,500
Each income year thereafter	10,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second income year after the property was placed in service shall be included in income for that year.

(2) At the close of the second income year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (d), then the amount of the deduction previously claimed shall be added to the taxpayer's net income for the taxpayer's second income year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) This section shall remain in effect only until December 1, 2003, and as of that date is repealed.

SEC. 92. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the income year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) In the case of a corporation reporting its income on the accrual basis, if—

1 (1) The board of directors authorizes a charitable
2 contribution during any income year; and

3 (2) Payment of the contribution is made after the
4 close of that income year and on or before the 15th day
5 of the third month following the close of that income
6 year,

7 then the corporation may elect to treat the contribution
8 as paid during that income year. The election may be
9 made only at the time of the filing of the return for that
10 income year, and shall be signified in that manner as the
11 Franchise Tax Board shall by regulations prescribe.

12 (c) For purposes of this section, payment of a
13 charitable contribution that consists of a future interest in
14 tangible personal property shall be treated as made only
15 when all intervening interests in, and rights to the actual
16 possession or enjoyment of, the property have expired or
17 are held by persons other than the taxpayer or those
18 standing in a relationship to the taxpayer described in
19 Section 24428. For purposes of the preceding sentence, a
20 fixture which is intended to be severed from the real
21 property shall be treated as tangible personal property.

22 (d) No deduction shall be allowed under this section
23 for traveling expenses (including amounts expended for
24 meals and lodging) while away from home, whether paid
25 directly or by reimbursement, unless there is no
26 significant element of personal pleasure, recreation, or
27 vacation in that travel.

28 SEC. 93. Section 24358 of the Revenue and Taxation
29 Code is amended to read:

30 24358. (a) In the case of a corporation, the total
31 deductions under Section 24357 for any income year shall
32 not exceed 10 percent of the taxpayer's net income
33 computed without regard to any of the following:

34 (1) Subdivision (e) of Section 23802, relating to a
35 deduction for built-in gains and passive investment
36 income.

37 (2) Sections 24357 to 24359, inclusive, relating to the
38 deduction for contributions.

1 (3) Article 2 (commencing with Section 24401) of
2 Chapter 7 (except Sections 24407 to 24409, inclusive,
3 relating to organizational expenses).

4 (b) Section 170(d)(2) of the Internal Revenue Code,
5 relating to carryovers of excess contributions, shall apply
6 with respect to excess contributions made during income
7 years beginning on or after January 1, 1996.

8 SEC. 94. Section 24359 of the Revenue and Taxation
9 Code is amended to read:

10 24359. For purposes of Sections 24357 to 24359,
11 inclusive, the term “charitable contribution” means a
12 contribution or gift to or for the use of—

13 (a) A state, a possession of the United States, or any
14 political subdivision of any of the foregoing, or the United
15 States or the District of Columbia, but only if the
16 contribution or gift is made for exclusively public
17 purposes.

18 (b) A corporation, trust, or community chest, fund, or
19 foundation—

20 (1) Created or organized in the United States or in any
21 possession thereof, or under the law of the United States,
22 any state, the District of Columbia, or any possession of
23 the United States;

24 (2) Organized and operated exclusively for religious,
25 charitable, scientific, literary, or educational purposes or
26 to foster national or international amateur sports
27 competition (but only if no part of its activities involve
28 the provision of athletic facilities or equipment), or for
29 the prevention of cruelty to children or animals;

30 (3) No part of the net earnings of which inures to the
31 benefit of any private shareholder or individual; and

32 (4) Which is not disqualified for tax exemption under
33 Section 23701d by reason of attempting to influence
34 legislation, and which does not participate in, or
35 intervene in (including the publishing or distributing of
36 statements), any political campaign on behalf of (or in
37 opposition to) any candidate for public office.

38 A contribution or gift by a corporation to a trust, chest,
39 fund, or foundation shall be deductible by reason of this
40 section only if it is to be used within the United States or

1 any of its possessions exclusively for purposes specified in
2 paragraph (2). Rules similar to the rules of subdivision
3 (b) of Section 23701d shall apply for purposes of this
4 section.

5 (c) A post or organization of war veterans, or an
6 auxiliary unit or society of, or trust or foundation for, any
7 such post or organization—

8 (1) Organized in the United States or any of its
9 possessions, and

10 (2) No part of the net earnings of which inures to the
11 benefit of any private shareholder or individual.

12 (d) A cemetery company owned and operated
13 exclusively for the benefit of its members, or any
14 corporation chartered solely for burial purposes as a
15 cemetery corporation and not permitted by its charter to
16 engage in any business not necessarily incident to that
17 purpose, if the company or corporation is not operated for
18 profit and no part of the net earnings of the company or
19 corporation inures to the benefit of any private
20 shareholder or individual.

21 SEC. 95. Section 24402 of the Revenue and Taxation
22 Code is amended to read:

23 24402. (a) A portion of the dividends received during
24 the income year declared from income which has been
25 included in the measure of the taxes imposed under
26 Chapter 2 (commencing with Section 23101), Chapter 2.5
27 (commencing with Section 23400), or Chapter 3
28 (commencing with Section 23501) upon the taxpayer
29 declaring the dividends.

30 (b) The portion of dividends which may be deducted
31 under this section shall be as follows:

32 (1) In the case of any dividend described in
33 subdivision (a), received from a “more than 50 percent
34 owned corporation,” 100 percent.

35 (2) In the case of any dividend described in
36 subdivision (a), received from a “20 percent owned
37 corporation,” 80 percent.

38 (3) In the case of any dividend described in
39 subdivision (a), received from a corporation that is less
40 than 20 percent owned, 70 percent.

1 (c) For purposes of this section:

2 (1) The term “more than 50 percent owned
3 corporation” means any corporation if more than 50
4 percent of the stock of that corporation (by vote and
5 value) is owned by the taxpayer. For purposes of the
6 preceding sentence, stock described in Section
7 1504(a)(4) of the Internal Revenue Code shall not be
8 taken into account.

9 (2) The term “20 percent owned corporation” means
10 any corporation if 20 percent or more of the stock of that
11 corporation (by vote and value) is owned by the
12 taxpayer. For purposes of the preceding sentence, stock
13 described in Section 1504(a)(4) of the Internal Revenue
14 Code shall not be taken into account.

15 SEC. 96. Section 24407 of the Revenue and Taxation
16 Code is amended to read:

17 24407. The organizational expenditures of a
18 corporation may, at the election of the corporation (made
19 in accordance with regulations prescribed by the
20 Franchise Tax Board), be treated as deferred expenses.
21 In computing net income, the deferred expenses shall be
22 allowed as a deduction ratably over that period of not less
23 than 60 months as may be selected by the corporation
24 (beginning with the month in which the corporation
25 begins business).

26 SEC. 97. Section 24408 of the Revenue and Taxation
27 Code is amended to read:

28 24408. The term “organizational expenditures”
29 means any expenditure that meets all of the following
30 requirements:

31 (a) Is incident to the creation of the corporation.

32 (b) Is chargeable to capital account.

33 (c) Is of a character which, if expended incident to the
34 creation of a corporation having a limited life, would be
35 amortizable over that life.

36 SEC. 98. Section 24409 of the Revenue and Taxation
37 Code is amended to read:

38 24409. The election provided by Section 24407 may be
39 made for any income year beginning after December 31,
40 1960, but only if made not later than the time prescribed

1 by law for filing the return for that income year
2 (including extensions thereof). The period so elected
3 shall be adhered to in computing the income of the
4 corporation for the income year for which the election is
5 made and all subsequent income years. The election shall
6 apply only with respect to the expenditures paid or
7 incurred on or after June 23, 1961.

8 SEC. 99. Section 24411 of the Revenue and Taxation
9 Code is amended to read:

10 24411. (a) For purposes of those taxpayers electing to
11 compute income under Section 25110, 100 percent of the
12 qualifying dividends described in subdivision (c) and 75
13 percent of other qualifying dividends to the extent not
14 otherwise allowed as a deduction or eliminated from
15 income. “Qualifying dividends” means those received by
16 the water’s-edge group from corporations, *other than*
17 *banks*, if both of the following conditions are satisfied:

18 (1) The average of the property, payroll, and sales
19 factors within the United States for the corporation is less
20 than 20 percent.

21 (2) More than 50 percent of the total combined voting
22 power of all classes of stock entitled to vote is owned
23 directly or indirectly by the water’s-edge group.

24 (b) The water’s-edge group consists of corporations
25 whose income and apportionment factors are taken into
26 account pursuant to Section 25110.

27 (c) Dividends derived from a construction project, the
28 location of which is not subject to the taxpayer’s control.

29 For purposes of this subdivision:

30 (1) “Construction project” means any activity which
31 meets the following requirements:

32 (A) Is undertaken for any entity, including a
33 governmental entity, which is not affiliated with the
34 taxpayer.

35 (B) The majority of its cost of performance is
36 attributable to an addition to real property or an
37 alteration of land or any improvement thereto as those
38 terms are utilized for purposes of this code.

1 “Construction project” does not include the operation,
2 rental, leasing, or depletion of real property, land, or any
3 improvement thereto.

4 (2) “Location of which is not subject to the taxpayer’s
5 control” means that the place at which the majority of the
6 construction takes place results from the nature or
7 character of the construction project and not as a result
8 of the terms of the contract or agreement governing the
9 construction project.

10 SEC. 100. Section 24416 of the Revenue and Taxation
11 Code is amended to read:

12 24416. Except as provided in Sections 24416.1 and
13 24416.2, a net operating loss deduction shall be allowed in
14 computing net income under Section 24341 and shall be
15 determined in accordance with Section 172 of the
16 Internal Revenue Code, except as otherwise provided.

17 (a) (1) Net operating losses attributable to income
18 years beginning before January 1, 1987, shall not be
19 allowed.

20 (2) A net operating loss shall not be carried forward to
21 any income year beginning before January 1, 1987.

22 (b) (1) Except as provided in paragraphs (2) and (3),
23 the provisions of Section 172(b)(2) of the Internal
24 Revenue Code, relating to the amount of carryovers, shall
25 be modified so that 50 percent of the entire amount of the
26 net operating loss for any income year shall not be eligible
27 for carryover to any subsequent income year.

28 (2) In the case of a taxpayer who has a net operating
29 loss in an income year beginning on or after January 1,
30 1994, and who operates a new business during that
31 income year, each of the following shall apply to each loss
32 incurred during the first three income years of operating
33 the new business:

34 (A) If the net operating loss is equal to or less than the
35 net loss from the new business, 100 percent of the net
36 operating loss shall be carried forward as provided in
37 paragraph (2) of subdivision (e).

38 (B) If the net operating loss is greater than the net loss
39 from the new business, the net operating loss shall be
40 carried over as follows:

1 (i) With respect to an amount equal to the net loss
2 from the new business, 100 percent of that amount shall
3 be carried forward as provided in paragraph (2) of
4 subdivision (e).

5 (ii) With respect to the portion of the net operating
6 loss that exceeds the net loss from the new business, 50
7 percent of that amount shall be a net operating loss
8 carryover to each of the five taxable years following the
9 taxable year of the loss.

10 (C) For purposes of Section 172(b)(2) of the Internal
11 Revenue Code, the amount described in clause (ii) of
12 subparagraph (B) shall be absorbed before the amount
13 described in clause (i) of subparagraph (B).

14 (3) In the case of a taxpayer who has a net operating
15 loss in an income year beginning on or after January 1,
16 1994, and who operates an eligible small business during
17 that income year, each of the following shall apply:

18 (A) If the net operating loss is equal to or less than the
19 net loss from the eligible small business, 100 percent of the
20 net operating loss shall be carried forward to the income
21 years specified in paragraph (1) of subdivision (e).

22 (B) If the net operating loss is greater than the net loss
23 from the eligible small business, the net operating loss
24 shall be carried over as follows:

25 (i) With respect to an amount equal to the net loss
26 from the eligible small business, 100 percent of that
27 amount shall be carried forward to each of the five
28 income years following the income year of the loss.

29 (ii) With respect to the portion of the net operating
30 loss that exceeds the net loss from the eligible small
31 business, 50 percent of that amount shall be a net
32 operating loss carryover to each of the five income years
33 following the income year of the loss.

34 (C) For purposes of Section 172(b)(2) of the Internal
35 Revenue Code, the amount described in clause (ii) of
36 subparagraph (B) shall be absorbed before the amount
37 described in clause (i) of subparagraph (B).

38 (4) In the case of a taxpayer who has a net operating
39 loss in an income year beginning on or after January 1,
40 1994, and who operates a business that qualifies as both a

1 new business and an eligible small business under this
2 section, that business shall be treated as a new business for
3 the first three income years of the new business.

4 (5) In the case of a taxpayer who has a net operating
5 loss in an income year beginning on or after January 1,
6 1994, and who operates more than one business, and more
7 than one of those businesses qualifies as either a new
8 business or an eligible small business under this section,
9 paragraph (2) shall be applied first, except that if there
10 is any remaining portion of the net operating loss after
11 application of clause (i) of subparagraph (B) of
12 paragraph (2), paragraph (3) shall be applied to the
13 remaining portion of the net operating loss as though that
14 remaining portion of the net operating loss constituted
15 the entire net operating loss.

16 (6) For purposes of this section, “net loss” means the
17 amount of net loss after application of Sections 465 and
18 469 of the Internal Revenue Code.

19 (c) For any income year in which the taxpayer has in
20 effect a water’s-edge election under Section 25110, the
21 deduction of a net operating loss carryover shall be
22 denied to the extent that the net operating loss carryover
23 was determined by taking into account the income and
24 factors of an affiliated corporation in a combined report
25 whose income and apportionment factors would not have
26 been taken into account if a water’s-edge election under
27 Section 25110 had been in effect for the income year in
28 which the loss was incurred.

29 (d) Net operating loss carrybacks shall not be allowed.

30 (e) (1) Except as provided in paragraphs (2), (3), and
31 (4), for each income year beginning on or after January
32 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue
33 Code, relating to years to which net operating losses may
34 be carried, is modified to substitute “five income years”
35 in lieu of “15 taxable years.”

36 (2) In the case of a “new business,” the “five income
37 years” referred to in paragraph (1) shall be modified to
38 read as follows:

39 (A) “Eight income years” for a net operating loss
40 attributable to the first income year of that new business.

1 (B) “Seven income years” for a net operating loss
2 attributable to the second income year of that new
3 business.

4 (C) “Six income years” for a net operating loss
5 attributable to the third income year of that new business.

6 (3) For any carryover of a net operating loss for which
7 a deduction is denied by Section 24416.3, the carryover
8 period specified in this subdivision shall be extended as
9 follows:

10 (A) By one year for a net operating loss attributable to
11 income years beginning in 1991.

12 (B) By two years for a net operating loss attributable
13 to income years beginning prior to January 1, 1991.

14 (4) The net operating loss attributable to income years
15 beginning on or after January 1, 1987, and before January
16 1, 1994, shall be a net operating loss carryover to each of
17 the 10 income years following the year of the loss if it is
18 incurred by a corporation that was either of the following:

19 (A) Under the jurisdiction of the court in a Title 11 or
20 similar case at any time prior to January 1, 1994. The loss
21 carryover provided in the preceding sentence shall not
22 apply to any loss incurred in an income year after the
23 income year during which the corporation is no longer
24 under the jurisdiction of the court in a Title 11 or similar
25 case.

26 (B) In receipt of assets acquired in a transaction that
27 qualifies as a tax-free reorganization under Section
28 368(a)(1)(G) of the Internal Revenue Code.

29 (f) For purposes of this section:

30 (1) “Eligible small business” means any trade or
31 business that has gross receipts, less returns and
32 allowances, of less than one million dollars (\$1,000,000)
33 during the income year.

34 (2) Except as provided in subdivision (g), “new
35 business” means any trade or business activity that is first
36 commenced in this state on or after January 1, 1994.

37 (3) “Title 11 or similar case” shall have the same
38 meaning as in Section 368(a)(3) of the Internal Revenue
39 Code.

(4) In the case of any trade or business activity conducted by a partnership or an S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first income year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (“prior trade or business activity”),

1 and thereafter commences an additional trade or
2 business activity in this state, the additional trade or
3 business activity shall only be treated as a new business if
4 the additional trade or business activity is classified under
5 a different division of the Standard Industrial
6 Classification (SIC) Manual published by the United
7 States Office of Management and Budget, 1987 edition,
8 than are any of the taxpayer's (or any related person's)
9 current or prior trade or business activities.

10 (3) In any case where a taxpayer, including all related
11 persons, is engaged in trade or business activities wholly
12 outside of this state and the taxpayer first commences
13 doing business in this state (within the meaning of Section
14 23101) after December 31, 1993 (other than by purchase
15 or other acquisition described in paragraph (1)), the
16 trade or business activity shall be treated as a new
17 business under paragraph (2) of subdivision (e).

18 (4) In any case where the legal form under which a
19 trade or business activity is being conducted is changed,
20 the change in form shall be disregarded and the
21 determination of whether the trade or business activity
22 is a new business shall be made by treating the taxpayer
23 as having purchased or otherwise acquired all or any
24 portion of the assets of an existing trade or business under
25 the rules of paragraph (1) of this subdivision.

26 (5) "Related person" shall mean any person that is
27 related to the taxpayer under either Section 267 or 318 of
28 the Internal Revenue Code.

29 (6) "Acquire" shall include any transfer, whether or
30 not for consideration.

31 (7) (A) For income years beginning on or after
32 January 1, 1997, the term "new business" shall include any
33 taxpayer that is engaged in biopharmaceutical activities
34 or other biotechnology activities that are described in
35 Codes 2833 to 2836, inclusive, of the Standard Industrial
36 Classification (SIC) Manual published by the United
37 States Office of Management and Budget, 1987 edition,
38 and as further amended, and that has not received
39 regulatory approval for any product from the United
40 States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) “Biopharmaceutical activities” means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(ii) “Other biotechnology activities” means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carry forward which may be deducted in any income year.

(i) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

1 (I) The amendments made by the act adding this
2 subdivision shall be operative for income years beginning
3 on or after January 1, 1997.

4 SEC. 101. Section 24416.2 of the Revenue and
5 Taxation Code is amended to read:

6 24416.2. The term “qualified taxpayer” as used in
7 Section 24416.1 means any of the following:

8 (a) A corporation engaged in the conduct of a trade or
9 business within an enterprise zone designated pursuant
10 to Chapter 12.8 (commencing with Section 7070) of
11 Division 7 of Title 1 of the Government Code.

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any income year and a net operating loss for
14 any income year beginning on or after the date that the
15 area in which the taxpayer conducts a trade or business
16 is designated as an enterprise zone shall be a net
17 operating loss carryover to each of the 15 income years
18 following the income year of loss.

19 (2) For purposes of this subdivision:

20 (A) “Net operating loss” means the loss determined
21 under Section 172 of the Internal Revenue Code, as
22 modified by Section 24416.1, attributable to the taxpayer’s
23 business activities within the enterprise zone (as defined
24 in Chapter 12.8 (commencing with Section 7070) of
25 Division 7 of Title 1 of the Government Code) prior to the
26 enterprise zone expiration date. That attributable loss
27 shall be determined in accordance with the provisions of
28 Chapter 17 (commencing with Section 25101), modified
29 for purposes of this section by substituting “enterprise
30 zone” for “this state.”

31 (B) A net operating loss carryover shall be a deduction
32 only with respect to the taxpayer’s business income
33 attributable to the enterprise zone (as defined in Chapter
34 12.8 (commencing with Section 7070) of Division 7 of
35 Title 1 of the Government Code) determined in
36 accordance with the provisions of Chapter 17
37 (commencing with Section 25101), modified for purposes
38 of this section by substituting “enterprise zone” for “this
39 state.”

1 (C) If a loss carryover is allowable pursuant to this
2 section for any income year after the enterprise zone
3 designation has expired, the enterprise zone shall be
4 deemed to remain in existence for purposes of computing
5 the limitation set forth in subparagraph (B) and allowing
6 a net operating loss deduction.

7 (D) “Enterprise zone expiration date” means the date
8 the enterprise zone designation expires, is no longer
9 binding, or becomes inoperative.

10 (b) A corporation engaged in the conduct of a trade or
11 business within the Los Angeles Revitalization Zone
12 designated pursuant to Section 7102 of the Government
13 Code.

14 (1) (A) A net operating loss shall not be a net
15 operating loss carryback for any income year and, except
16 as provided in subparagraph (B), a net operating loss for
17 any income year beginning on or after the date the area
18 in which the taxpayer conducts a trade or business is
19 designated the Los Angeles Revitalization Zone shall be
20 a net operating loss carryover to each following income
21 year that ends before the Los Angeles Revitalization
22 Zone expiration date or to each of the 15 income years
23 following the income year of loss, if longer.

24 (B) In the case of a financial institution to which
25 Section 585, 586, or 593 of the Internal Revenue Code
26 applies, a net operating loss for any income year
27 beginning on or after January 1, 1984, shall be a net
28 operating loss carryover to each of the five years
29 following the income year of the loss. Subdivision (b) of
30 Section 24416.1 shall not apply.

31 (2) For the purposes of this subdivision:

32 (A) “Net operating loss” means the loss determined
33 under Section 172 of the Internal Revenue Code, as
34 modified by Section 24416.1, attributable to the taxpayer’s
35 business activities within the Los Angeles Revitalization
36 Zone (as defined in Section 7102 of the Government
37 Code) prior to the Los Angeles Revitalization Zone
38 expiration date. The attributable loss shall be determined
39 in accordance with the provisions of Chapter 17
40 (commencing with Section 25101), modified as follows:

(i) The loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The Los Angeles Revitalization Zone” shall be substituted for this state.

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) determined in accordance with the provisions of paragraph (3).

(C) If a loss carryover is allowable pursuant to this section for any income year after the Los Angeles Revitalization Zone designation has expired, the Los Angeles Revitalization Zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.

(3) Attributable income shall be that portion of the taxpayer’s California source business income which is apportioned to the Los Angeles Revitalization Zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the Los Angeles Revitalization Zone in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified as follows:

(A) Business income shall be apportioned to the Los Angeles Revitalization Zone by multiplying total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the Los Angeles Revitalization Zone during the income

1 year and the denominator of which is the average value
2 of all the taxpayer's real and tangible personal property
3 owned or rented and used in this state during the income
4 year.

5 (C) The payroll factor is a fraction, the numerator of
6 which is the total amount paid by the taxpayer in the Los
7 Angeles Revitalization Zone during the income year for
8 compensation, and the denominator of which is the total
9 compensation paid by the taxpayer in this state during the
10 income year.

11 (4) "Los Angeles Revitalization Zone expiration date"
12 means the date the Los Angeles Revitalization Zone
13 designation expires, is repealed, or becomes inoperative
14 pursuant to Section 7102, 7103, or 7104 of the Government
15 Code.

16 (5) This subdivision shall be inoperative on the first
17 day of the income year beginning on or after the
18 determination date, and each income year thereafter,
19 with respect to the taxpayer's business activities within a
20 geographic area that is excluded from the map pursuant
21 to Section 7102 of the Government Code, or an excluded
22 area determined pursuant to Section 7104 of the
23 Government Code. The determination date is the earlier
24 of the first effective date of a determination under
25 subdivision (c) of Section 7102 of the Government Code
26 occurring after December 1, 1994, or the first effective
27 date of an exclusion of an area from the amended Los
28 Angeles Revitalization Zone under Section 7104 of the
29 Government Code. However, if the taxpayer has any
30 unused loss amount as of the date this section becomes
31 inoperative, that unused loss amount may continue to be
32 carried forward as provided in this subdivision.

33 (6) This subdivision shall cease to be operative on
34 January 1, 1998. However, any unused net operating loss
35 may continue to be carried over to following years as
36 provided in this subdivision.

37 (c) For each income year beginning on or after
38 January 1, 1995, and before January 1, 2003, a taxpayer
39 engaged in the conduct of a trade or business within a
40 LAMBRA.

1 (1) (A) A net operating loss shall not be a net
2 operating loss carryback for any income year and, except
3 as provided in subparagraph (B), a net operating loss for
4 any income year beginning on or after the date the area
5 in which the taxpayer conducts a trade or business is
6 designated a LAMBRA shall be a net operating loss
7 carryover to each following income year that ends before
8 the LAMBRA expiration date or to each of the 15 income
9 years following the income year of loss, if longer.

10 (B) In the case of a financial institution to which
11 Section 585, 586, or 593 of the Internal Revenue Code
12 applies, a net operating loss for any income year
13 beginning on or after January 1, 1984, shall be a net
14 operating loss carryover to each of the five years
15 following the income year of the loss. Subdivision (b) of
16 Section 24416.1 shall not apply.

17 (2) For the purposes of this subdivision:

18 (A) “LAMBRA” means a local agency military base
19 recovery area designated in accordance with Section 7114
20 of the Government Code.

21 (B) “Taxpayer” means a corporation that conducts a
22 trade or business within a LAMBRA and, for the first two
23 income years, has a net increase in jobs (defined as 2,000
24 paid hours per employee per year) of one or more
25 employees in the LAMBRA and this state.

26 (i) The net increase in the number of jobs shall be
27 determined by subtracting the total number of full-time
28 employees (defined as 2,000 paid hours per employee per
29 year) the taxpayer employed in this state in the income
30 year prior to commencing business operations in the
31 LAMBRA from the total number of full-time employees
32 the taxpayer employed in this state during the second
33 income year after commencing business operations in the
34 LAMBRA. For taxpayers who commence doing business
35 in this state with their LAMBRA business operation, the
36 number of employees for the income year prior to
37 commencing business operations in the LAMBRA shall
38 be zero. The deduction shall be allowed only if the
39 taxpayer has a net increase in jobs in the state, and if one

1 or more full-time employees is employed within the
2 LAMBRA.

3 (ii) The total number of employees employed in the
4 LAMBRA shall equal the sum of both of the following:

5 (I) The total number of hours worked in the LAMBRA
6 for the taxpayer by employees (not to exceed 2,000 hours
7 per employee) who are paid an hourly wage divided by
8 2,000.

9 (II) The total number of months worked in the
10 LAMBRA for the taxpayer by employees who are salaried
11 employees divided by 12.

12 (iii) In the case of a taxpayer that first commences
13 doing business in the LAMBRA during the income year,
14 for purposes of subclauses (I) and (II), respectively, of
15 clause (ii) the divisors “2,000” and “12” shall be
16 multiplied by a fraction, the numerator of which is the
17 number of months of the income year that the taxpayer
18 was doing business in the LAMBRA and the denominator
19 of which is 12.

20 (C) “Net operating loss” means the loss determined
21 under Section 172 of the Internal Revenue Code, as
22 modified by Section 24416.1, attributable to the taxpayer’s
23 business activities within a LAMBRA prior to the
24 LAMBRA expiration date. The attributable loss shall be
25 determined in accordance with the provisions of Chapter
26 17 (commencing with Section 25101), modified as follows:

27 (i) Loss shall be apportioned to a LAMBRA by
28 multiplying the loss from the business by a fraction, the
29 numerator of which is the property factor plus the payroll
30 factor, and the denominator of which is two.

31 (ii) “The LAMBRA” shall be substituted for “this
32 state.”

33 (D) A net operating loss carryover shall be a deduction
34 only with respect to the taxpayer’s business income
35 attributable to a LAMBRA determined in accordance
36 with the provisions of Chapter 17 (commencing with
37 Section 25101), modified as follows:

38 (i) Business income shall be apportioned to a
39 LAMBRA by multiplying total business income by a
40 fraction, the numerator of which is the property factor

1 plus the payroll factor, and the denominator of which is
2 two.

3 (ii) “The LAMBRA” shall be substituted for “this
4 state.”

5 (iii) If a loss carryover is allowable pursuant to this
6 section for any income year after the LAMBRA
7 designation has expired, the LAMBRA shall be deemed
8 to remain in existence for purposes of computing this
9 limitation.

10 (E) “LAMBRA expiration date” means the date the
11 LAMBRA designation expires, is no longer binding, or
12 becomes inoperative pursuant to Section 7110 of the
13 Government Code.

14 (d) A taxpayer who qualifies as a “qualified taxpayer”
15 shall, for the income year of the net operating loss and any
16 income year to which that net operating loss may be
17 carried, designate on the original return filed for each
18 year the subdivision of this section which applies to that
19 taxpayer with respect to that net operating loss. If the
20 taxpayer is eligible to qualify under more than one
21 subdivision of this section, the designation is to be made
22 after taking into account subdivision (e).

23 (e) If a taxpayer is eligible to qualify under more than
24 one subdivision of this section as a “qualified taxpayer,”
25 with respect to a net operating loss in an income year, the
26 taxpayer shall designate which subdivision of this section
27 is to apply to the taxpayer.

28 (f) Notwithstanding Section 24416, the amount of the
29 loss determined under this section shall be the only net
30 operating loss allowed to be carried over from that
31 income year and the designation under subdivision (d)
32 shall be included in the election under Section 24416.1.

33 SEC. 102. Section 24602 of the Revenue and Taxation
34 Code is amended to read:

35 24602. (a) In addition to the application of Part II
36 (commencing with Section 421) of Subchapter D of
37 Chapter 1 of Subtitle A of the Internal Revenue Code,
38 relating to certain stock options, paragraphs (1), (2), and
39 (3) of Section 421(a) of the Internal Revenue Code shall
40 also apply to any California qualified stock option that is

1 granted to an individual whose earned income from the
2 corporation granting the California qualified stock option
3 for the income year in which that option is exercised does
4 not exceed forty thousand dollars (\$40,000). In the event
5 that the option does not meet the necessary
6 qualifications, the option shall be treated as a
7 nonqualified stock option.

8 (b) For purposes of this section, “California qualified
9 stock option” means a stock option that is issued and
10 exercised pursuant to this section and that is designated
11 by the corporation issuing the option as a California
12 qualified stock option at the time the option is granted.

13 (c) (1) This section shall apply only to those stock
14 options that are issued on or after January 1, 1997, and
15 before January 1, 2002, by a corporation to its employee
16 and are exercised by the employee, while employed by
17 the corporation that issued those stock options (or within
18 three months thereof, or within one year thereof if
19 permanently and totally disabled as defined in Section
20 22(e)(3) of the Internal Revenue Code), during the
21 income year with respect to any class of shares, or
22 combination thereof, issued by the corporation, to the
23 extent that the number of shares transferable by the
24 exercise of the options does not exceed a total of 1,000 and
25 have a combined fair market value of less than one
26 hundred thousand dollars (\$100,000). The combined fair
27 market value of any stock shall be determined as of the
28 time the option with respect to that stock is granted.

29 (2) Paragraph (1) shall be applied by taking options
30 into account in the order in which they were granted.

31 (d) In the case of a California qualified stock option, no
32 amount shall be included in the gross income of the
33 employee until such time as the disposition of the option
34 (or the stock acquired upon exercise of the option). No
35 deduction shall be allowed under Section 162 of the
36 Internal Revenue Code to the employer on the grant or
37 exercise of a California qualified stock option.

38 (e) Subdivision (d) shall not apply to any stock option
39 for which an election has been made under Section 83(b)

1 of the Internal Revenue Code, relating to election to
2 include in gross income in year of transfer.

3 SEC. 102.5. Section 24677 of the Revenue and
4 Taxation Code is amended to read:

5 24677. (a) If an amount representing damages is
6 received or accrued by a corporation during an income
7 year as a result of an award in a civil action for breach of
8 contract or breach of a fiduciary duty or relationship, then
9 the tax attributable to the inclusion in gross income for
10 the income year of that part of the amount that would
11 have been received or accrued by the corporation in a
12 prior income year or years but for the breach of contract,
13 or breach of a fiduciary duty or relationship, shall not be
14 greater than the aggregate of the increases in taxes that
15 would have resulted had that part been included in gross
16 income for that prior income year or years.

17 (b) A corporation in computing the tax shall be
18 entitled to deduct all credits and deductions for
19 depletion, depreciation, and other items to which it
20 would have been entitled, had the income been received
21 or accrued by the corporation in the year during which
22 it would have received or accrued it, except for the
23 breach of contract or for the breach of fiduciary duty or
24 relationship. The credits, deductions, or other items
25 referred to in the prior sentence, attributable to property,
26 shall be allowed only with respect to that part of the
27 award which represents the corporation's share of
28 income from the actual operation of the property.

29 (c) Subdivision (a) shall not apply unless the amount
30 representing damage is three thousand dollars (\$3,000) or
31 more.

32 SEC. 103. Section 24678 of the Revenue and Taxation
33 Code is amended to read:

34 24678. (a) If an amount representing damages is
35 received or accrued during an income year as a result of
36 an award in, or settlement of, a civil action brought under
37 Section 4 of the act entitled "An act to supplement
38 existing laws against unlawful restraints and monopolies,
39 and for other purposes," approved October 15, 1914
40 (commonly known as the Clayton Act), for injuries

1 sustained by a corporation in its business or property by
2 reason of anything forbidden in the antitrust laws, then
3 the tax attributable to the inclusion of that amount in
4 gross income for the income year shall not be greater than
5 the aggregate of the increases in taxes which would have
6 resulted if that amount had been included in gross income
7 in equal installments for each month during the period in
8 which the injuries were sustained by the corporation.

9 (b) This section shall apply to income years ending
10 after June 23, 1961, but only with respect to amounts
11 received or accrued after that date as a result of awards
12 or settlements made after that date.

13 SEC. 104. Section 24710 of the Revenue and Taxation
14 Code is amended to read:

15 24710. (a) For each income year beginning on or
16 after January 1, 1997, Section 475 of the Internal Revenue
17 Code, relating to mark to market accounting method for
18 securities dealers, as added by Section 13223 of the
19 Revenue Reconciliation Act of 1993 (P.L. 103-66), shall
20 apply, except as otherwise provided.

21 (b) Section 13233(c)(2)(C) of the Revenue
22 Reconciliation Act of 1993 (P.L. 103-66), relating to the
23 effective date for changes in the mark to market
24 accounting method for securities dealers, is modified to
25 provide that the amount taken into account under
26 Section 481 of the Internal Revenue Code of 1986 shall be
27 taken into account ratably over the five-income-year
28 period beginning with the first income year beginning on
29 or after January 1, 1997.

30 SEC. 105. Section 24901 of the Revenue and Taxation
31 Code is amended to read:

32 24901. (a) The gain from the sale or other disposition
33 of property shall be the excess of the amount realized
34 therefrom over the adjusted basis provided in Section
35 24911 for determining gain, and the loss shall be the excess
36 of the adjusted basis provided in that section for
37 determining loss over the amount realized.

38 (b) The amount realized from the sale or other
39 disposition of property shall be the sum of any money
40 received plus the fair market value of the property (other

1 than money) received. In determining the amount
2 realized—

3 (1) There shall not be taken into account any amount
4 received as reimbursement for real property taxes which
5 are treated under Section 24346 as imposed on the
6 purchaser, and

7 (2) There shall be taken into account amounts
8 representing real property taxes which are treated under
9 Section 24346 as imposed on the corporation if those taxes
10 are to be paid by the purchaser.

11 (c) In the case of a sale or exchange of property, the
12 extent to which the gain or loss determined under this
13 section shall be recognized for purposes of this part shall
14 be determined under Section 24902.

15 (d) Nothing in this section shall be construed to
16 prevent (in the case of property sold under contract
17 providing for payment in installments) the taxation of
18 that portion of any installment payment representing
19 gain or profit in the year in which that payment is
20 received.

21 (e) (1) In determining gain or loss from the sale or
22 other disposition of a term interest in property, that
23 portion of the adjusted basis of that interest which is
24 determined pursuant to Sections 24914 and 24915 (to the
25 extent that the adjusted basis is a portion of the entire
26 adjusted basis of the property) shall be disregarded.

27 (2) For purposes of paragraph (1), the term “term
28 interest in property” means—

29 (A) A life interest in property,

30 (B) An interest in property for a term of years, or

31 (C) An income interest in a trust.

32 (3) Paragraph (1) shall not apply to a sale or other
33 disposition which is a part of a transaction in which the
34 entire interest in property is transferred to any person or
35 persons.

36 SEC. 106. Section 24903 of the Revenue and Taxation
37 Code is repealed.

38 SEC. 107. Section 24912 of the Revenue and Taxation
39 Code is amended to read:

1 24912. The basis of property shall be the cost of the
2 property, except as otherwise provided in Chapter 8
3 (commencing with Section 24451), relating to corporate
4 distributions and adjustments, and this chapter. The cost
5 of real property shall not include any amount in respect
6 of real property taxes which are treated under Section
7 24346 as imposed on a corporation.

8 SEC. 108. Section 24916 of the Revenue and Taxation
9 Code is amended to read:

10 24916. Proper adjustment with regard to the property
11 shall in all cases be made as follows:

12 (a) For expenditures, receipts, losses, or other items
13 properly chargeable to capital account. However, no
14 adjustment shall be made for any of the following:

15 (1) Sales or use tax paid or incurred in connection with
16 the acquisition of property for which a tax credit is
17 claimed pursuant to Section 23612.

18 (2) Taxes or other carrying charges described in
19 Section 24426, or for expenditures described in Sections
20 24364 and 24369 for which deductions have been taken in
21 determining net income for the income year or any prior
22 income year.

23 (b) For exhaustion, wear and tear, obsolescence,
24 amortization, and depletion:

25 (1) In the case of corporations subject to the tax
26 imposed by Chapter 2 (commencing with Section 23101),
27 to the extent sustained prior to January 1, 1928, and to the
28 extent allowed (but not less than the amount allowable)
29 under this part, except that no deduction shall be made
30 for amounts in excess of the amount which would have
31 been allowable had depreciation not been computed on
32 the basis of January 1, 1928, value and amounts in excess
33 of the adjustments required by Section 113(b)(1)(B) of
34 the Federal Revenue Act of 1938 for depletion prior to
35 January 1, 1932.

36 (2) In the case of a taxpayer subject to the tax imposed
37 by Chapter 3 (commencing with Section 23501), to the
38 extent sustained prior to January 1, 1937, and for periods
39 thereafter to the extent allowed (but not less than the
40 amount allowable) under the provisions of this part.

(3) If a taxpayer has not claimed an amortization deduction for an emergency facility, the adjustment under paragraph (1) shall be made only to the extent ordinarily provided under Sections 24349 and 24372.

(c) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(d) (1) In the case of corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), in the case of any bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to Section 24360 with respect thereto.

(2) In the case of taxpayers subject to the tax imposed by Chapter 3 (commencing with Section 23501), in the case of any bond, as defined in Section 24363, the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 24360, and in the case of any other bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to subdivision (a) of Section 24360 (or the amount applied to reduce interest payments under paragraph (2) of subdivision (a) of Section 24363.5) with respect thereto.

(3) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 24273, and to the extent of any deficiency on that loan with respect to which the taxpayer has been relieved from liability.

(e) For amounts allowed as deductions as deferred expenses under Section 616(b) of the Internal Revenue Code, relating to certain expenditures in the development of mines, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the income year and prior years.

(f) For amounts allowable as deductions as deferred expenses under Section 617(a) of the Internal Revenue Code, relating to certain exploration expenditures, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the income year and prior years.

(g) For amounts allowed as deductions as deferred expenses under subdivision (a) of Section 24366, relating to research and experimental expenditures, and resulting in a reduction of the corporations' taxes under this part, but not less than the amounts allowable under that section for the income year and prior years.

(h) For amounts allowed as deductions under Sections 24356.2, 24356.3, and 24356.4.

(i) (1) To the extent provided in Section 179A(e)(6)(A) of the Internal Revenue Code, relating to basis reduction for clean-fuel vehicles and certain refueling property.

(2) This subdivision shall apply to property placed in service after June 30, 1993, without regard to income year.

SEC. 109. Section 24917 of the Revenue and Taxation Code is amended to read:

24917. Whenever it appears that the basis of property in the hands of the corporation is a substituted basis, then the adjustments provided in Section 24916 shall be made after first making in respect of that substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 110. Section 24918 of the Revenue and Taxation Code is amended to read:

1 24918. (a) Section 1017 of the Internal Revenue
2 Code, relating to discharge of indebtedness, shall apply,
3 except as otherwise provided. References to affiliated
4 groups which file a consolidated return under Section
5 1501 of the Internal Revenue Code shall be treated as
6 meaning members of the same unitary group which file
7 a combined report under Article 1 (commencing with
8 Section 25101) of Chapter 17.

9 (b) The amendments to Section 1017 of the Internal
10 Revenue Code made by Section 13226 of the Revenue and
11 Reconciliation Act of 1993 (P.L. 103-66), relating to
12 modifications of discharge of indebtedness provisions,
13 shall apply to discharges occurring on or after January 1,
14 1996, in income years beginning on or after January 1,
15 1996.

16 SEC. 111. Section 24942 of the Revenue and Taxation
17 Code is amended to read:

18 24942. (a) No gain or loss shall be recognized to a
19 corporation on the receipt of money or other property in
20 exchange for stock (including treasury stock) of that
21 corporation. No gain or loss shall be recognized by a
22 corporation with respect to any lapse or acquisition of an
23 option to buy or sell its stock (including treasury stock).

24 (b) For basis of property acquired by a corporation in
25 certain exchanges for its stock, see Sections 24552 to 24554,
26 inclusive.

27 SEC. 112. Section 24954 is added to the Revenue and
28 Taxation Code, to read:

29 24954. Section 1042 of the Internal Revenue Code,
30 relating to sales of stock to employee stock ownership
31 plans or certain cooperatives, shall apply to income years
32 beginning on or after January 1, 1996.

33 SEC. 113. Section 25105 of the Revenue and Taxation
34 Code is amended to read:

35 25105. (a) For purposes of this article, other than
36 Section 25102, the income and apportionment factors of
37 two or more corporations shall be included in a combined
38 report only if the corporations, otherwise meeting the
39 requirements of Section 25101 or 25101.15, are members
40 of a commonly controlled group.

1 (b) A “commonly controlled group” means any of the
2 following:

3 (1) A parent corporation and any one or more
4 corporations or chains of corporations, connected
5 through stock ownership (or constructive ownership)
6 with the parent, but only if—

7 (A) The parent owns stock possessing more than 50
8 percent of the voting power of at least one corporation,
9 and, if applicable,

10 (B) Stock cumulatively representing more than 50
11 percent of the voting power of each of the corporations,
12 except the parent, is owned by the parent, one or more
13 corporations described in subparagraph (A), or one or
14 more other corporations that satisfy the conditions of this
15 subparagraph.

16 (2) Any two or more corporations, if stock
17 representing more than 50 percent of the voting power
18 of the corporations is owned, or constructively owned, by
19 the same person.

20 (3) Any two or more corporations that constitute
21 stapled entities.

22 (A) For purposes of this paragraph, “stapled entities”
23 means any group of two or more corporations if more
24 than 50 percent of the ownership or beneficial ownership
25 of the stock possessing voting power in each corporation
26 consists of stapled interests.

27 (B) Two or more interests are stapled interests if, by
28 reason of form of ownership restrictions on transfer, or
29 other terms or conditions, in connection with the transfer
30 of one of the interests the other interest or interests are
31 also transferred or required to be transferred.

32 (4) Any two or more corporations, all of whose stock
33 representing more than 50 percent of the voting power
34 of the corporations is cumulatively owned (without
35 regard to the constructive ownership rules of paragraph
36 (1) of subdivision (e)) by, or for the benefit of, members
37 of the same family. Members of the same family are
38 limited to an individual, his or her spouse, parents,
39 brothers or sisters, grandparents, children and
40 grandchildren, and their respective spouses.

(c) (1) If, in the application of subdivision (b), a corporation is eligible to be treated as a member of more than one commonly controlled group of corporations, the corporation shall elect to be treated as a member of only one commonly controlled group. This election shall remain in effect unless revoked with the approval of the Franchise Tax Board.

(2) Membership in a commonly controlled group shall be treated as terminated in any year, or fraction thereof, in which the conditions of subdivision (b) are not met, except as follows:

(A) When stock of a corporation is sold, exchanged, or otherwise disposed of, the membership of a corporation in a commonly controlled group shall not be terminated, if the requirements of subdivision (b) are again met immediately after the sale, exchange, or disposition.

(B) The Franchise Tax Board may treat the commonly controlled group as remaining in place if the conditions of subdivision (b) are again met within a period not to exceed two years.

(d) A taxpayer may exclude some or all corporations included in a “commonly controlled group” by reason of paragraph (4) of subdivision (b) by showing that those members of the group are not controlled directly or indirectly by the same interests, within the meaning of the same phrase in Section 482 of the Internal Revenue Code. For purposes of this subdivision, the term “controlled” includes any kind of control, direct or indirect, whether legally enforceable, and however exercisable or exercised.

(e) Except as otherwise provided, stock is “owned” when title to the stock is directly held or if the stock is constructively owned.

(1) An individual constructively owns stock that is owned by any of the following:

(A) His or her spouse.

(B) Children, including adopted children, of that individual or the individual’s spouse, who have not attained the age of 21 years.

1 (C) An estate or trust, of which the individual is an
2 executor, trustee, or grantor, to the extent that the estate
3 or trust is for the benefit of that individual's spouse or
4 children.

5 (2) Stock owned by a corporation, or a member of a
6 controlled group of which the corporation is the parent
7 corporation, is constructively owned by any shareholder
8 owning stock that represents more than 50 percent of the
9 voting power of the corporation.

10 (3) Stock owned by a partnership is constructively
11 owned by any partner, other than a limited partner, in
12 proportion to the partner's capital interest in the
13 partnership. For this purpose, a partnership is treated as
14 owning proportionately the stock owned by any other
15 partnership in which it has a tiered interest, other than as
16 a limited partner.

17 (4) In any case where a member of a commonly
18 controlled group, or shareholders, officers, directors, or
19 employees of a member of a commonly controlled group,
20 is a general partner in a limited partnership, stock held by
21 the limited partnership is constructively owned by a
22 limited partner to the extent of its capital interest in the
23 limited partnership.

24 (f) For purposes of this section, each of the following
25 shall apply:

26 (1) "Corporation" means a subchapter S corporation,
27 any other incorporated entity, or any entity defined or
28 treated as a corporation pursuant to Section 23038 or
29 23038.5.

30 (2) "Person" means an individual, a trust, an estate, a
31 qualified employee benefit plan, a limited partnership, or
32 a corporation.

33 (3) "Voting power" means the power of all classes of
34 stock entitled to vote that possess the power to elect the
35 membership of the board of directors of the corporation.

36 (4) "More than 50 percent of the voting power" means
37 voting power sufficient to elect a majority of the
38 membership of the board of directors of the corporation.

(5) “Stock representing voting power” includes stock where ownership is retained but the actual voting power is transferred in either of the following manners:

(A) For one year or less.

(B) By proxy, voting trust, written shareholder agreement, or by similar device, where the transfer is revocable by the transferor.

(g) The Franchise Tax Board may prescribe any regulations as may be necessary or appropriate to carry out the purposes of this section, including, but not limited to, regulations that do the following:

(1) Prescribe terms and conditions relating to the election described by subdivision (c), and the revocation thereof.

(2) Disregard transfers of voting power not described by paragraph (5) of subdivision (f).

(3) Treat entities not described by paragraph (2) of subdivision (f) as a person.

(4) Treat warrants, obligations convertible into stock, options to acquire or sell stock, and similar instruments as stock.

(5) Treat holders of a beneficial interest in, or executor or trustee powers over, stock held by an estate or trust as constructively owned by the holder.

(6) Prescribe rules relating to the treatment of partnership agreements which authorize a particular partner or partners to exercise voting power of stock held by the partnership.

(h) This section shall apply to income years beginning on or after January 1, 1995.

SEC. 114. Section 25110 of the Revenue and Taxation Code is amended to read:

25110. (a) Notwithstanding Section 25101, a qualified taxpayer, as defined in paragraph (2) of subdivision (b), that is subject to the tax imposed under this part, may elect to determine its income derived from or attributable to sources within this state pursuant to a water’s-edge election in accordance with the provisions of this part, as modified by this article. A taxpayer that makes a water’s-edge election shall take into account the

1 income and apportionment factors of the following
2 affiliated entities only:

3 (1) Domestic international sales corporations, as
4 described in Sections 991 to 994, inclusive, of the Internal
5 Revenue Code and foreign sales corporations as
6 described in Sections 921 to 927, inclusive, of the Internal
7 Revenue Code.

8 (2) Any corporation (other than a bank), regardless of
9 the place where it is incorporated if the average of its
10 property, payroll, and sales factors within the United
11 States is 20 percent or more.

12 (3) Corporations that are incorporated in the United
13 States, excluding corporations making an election
14 pursuant to Sections 931 to 936, inclusive, of the Internal
15 Revenue Code, of which more than 50 percent of their
16 voting stock is owned or controlled directly or indirectly
17 by the same interests.

18 (4) A corporation that is not described in paragraphs
19 (1) to (3), inclusive, or paragraph (5), but only to the
20 extent of its income derived from or attributable to
21 sources within the United States and its factors assignable
22 to a location within the United States in accordance with
23 paragraph (3) of subdivision (b). Income of such a
24 corporation derived from or attributable to sources
25 within the United States as determined by federal income
26 tax laws shall be limited to and determined from the
27 books of account maintained by the corporation with
28 respect to its activities conducted within the United
29 States.

30 (5) Export trade corporations, as described in Sections
31 970 to 972, inclusive, of the Internal Revenue Code.

32 (6) Any affiliated corporation which is a “controlled
33 foreign corporation,” as defined in Section 957 of the
34 Internal Revenue Code, if all or part of the income of that
35 affiliate is defined in Section 952 of Subpart F of the
36 Internal Revenue Code (“Subpart F income”). The
37 income and apportionment factors of any affiliate to be
38 included under this paragraph shall be determined by
39 multiplying the income and apportionment factors of
40 that affiliate without application of this paragraph by a

1 fraction (not to exceed one), the numerator of which is
2 the “Subpart F income” of that corporation for that
3 income year and the denominator of which is the
4 “earnings and profits” of that corporation for that income
5 year, as defined in Section 964 of the Internal Revenue
6 Code.

7 (7) (A) The income and factors of the
8 above-enumerated corporations shall be taken into
9 account only if the income and factors would have been
10 taken into account under Section 25101 if this section had
11 not been enacted.

12 (B) The income and factors of a corporation that is not
13 described in paragraphs (1) to (3), inclusive, and
14 paragraph (5) and that is an electing taxpayer under this
15 subdivision shall be taken into account in determining its
16 income only to the extent set forth in paragraph (4).

17 (b) For purposes of this article and Section 24411:

18 (1) An “affiliated corporation” means a corporation
19 that is a member of a commonly controlled group as
20 defined in Section 25105.

21 (2) A “qualified taxpayer” means a corporation which
22 does both of the following:

23 (A) Files with the state tax return on which the
24 water’s-edge election is made a consent to the taking of
25 depositions at the time and place most reasonably
26 convenient to all parties from key domestic corporate
27 individuals and to the acceptance of subpoenas duces
28 tecum requiring reasonable production of documents to
29 the Franchise Tax Board as provided in Section 19504 or
30 by the State Board of Equalization as provided in Title 18,
31 California Code of Regulations, Section 5005, or by the
32 courts of this state as provided in Chapter 2 (commencing
33 with Section 1985) of Title 3 of Part 4 of, and Section 2025
34 of, the Code of Civil Procedure. The consent relates to
35 issues of jurisdiction and service and does not waive any
36 defenses a taxpayer may otherwise have. The consent
37 shall remain in effect so long as the water’s-edge election
38 is in effect and shall be limited to providing that
39 information necessary to review or to adjust income or
40 deductions in a manner authorized under Sections 482,



1 861, Subpart F of Part III of Subchapter N, or similar
2 provisions of the Internal Revenue Code, together with
3 the regulations adopted pursuant to those provisions, and
4 for the conduct of an investigation with respect to any
5 unitary business in which the taxpayer may be involved.

6 (B) Agrees that for purposes of this article, dividends
7 received by any corporation whose income and
8 apportionment factors are taken into account pursuant to
9 subdivision (a) from either of the following are
10 functionally related dividends and shall be presumed to
11 be business income:

12 (i) A corporation of which more than 50 percent of the
13 voting stock is owned, directly or indirectly, by members
14 of the unitary group and which is engaged in the same
15 general line of business.

16 (ii) Any corporation that is either a significant source
17 of supply for the unitary business or a significant
18 purchaser of the output of the unitary business, or that
19 sells a significant part of its output or obtains a significant
20 part of its raw materials or input from the unitary
21 business. “Significant,” as used in this subparagraph,
22 means an amount of 15 percent or more of either input
23 or output.

24 All other dividends shall be classified as business or
25 nonbusiness income without regard to this subparagraph.

26 (3) The definitions and locations of property, payroll,
27 and sales shall be determined under the laws and
28 regulations that set forth the apportionment formulas
29 used by the individual states to assign net income subject
30 to taxes on or measured by net income in that state. If a
31 state does not impose a tax on or measured by net income
32 or does not have laws or regulations with respect to the
33 assignment of property, payroll, and sales, the laws and
34 regulations provided in Article 2 (commencing with
35 Section 25120) shall apply.

36 Sales shall be considered to be made to a state only if the
37 corporation making the sale may otherwise be subject to
38 a tax on or measured by net income under the
39 Constitution or laws of the United States, and shall not
40 include sales made to a corporation whose income and

1 apportionment factors are taken into account pursuant to
2 subdivision (a) in determining the amount of income of
3 the taxpayer derived from or attributable to sources
4 within this state.

5 (4) “The United States” means the 50 states of the
6 United States and the District of Columbia.

7 (c) All references in this part to income determined
8 pursuant to Section 25101 shall also mean income
9 determined pursuant to this section.

10 SEC. 115. Section 25111 of the Revenue and Taxation
11 Code is amended to read:

12 25111. (a) The making of a water’s-edge election as
13 provided for in Section 25110 shall be made by contract
14 with the Franchise Tax Board in the original return for a
15 year and shall be effective only if every taxpayer that is
16 a member of the water’s-edge group and which is subject
17 to tax under this part makes the election. A single
18 taxpayer that is engaged in more than one business
19 activity subject to allocation and apportionment as
20 provided in Article 2 (commencing with Section 25120)
21 of Chapter 17 may make a separate election for each
22 business. The form and manner of making the
23 water’s-edge election shall be prescribed by the
24 Franchise Tax Board. Each contract making a
25 water’s-edge election shall be for an initial term of 84
26 months, except as provided in subdivisions (b). Each
27 contract shall provide that on the anniversary date of the
28 contract or any other annual date specified by the
29 contract a year shall be added automatically to the initial
30 term unless notice of nonrenewal is given as provided in
31 subdivision (d). An affiliated corporation that is a
32 member of the water’s-edge group and subsequently
33 becomes subject to tax under this part or is a nonelecting
34 taxpayer that is subsequently proved to be a member of
35 the water’s-edge group pursuant to Franchise Tax Board
36 audit determination, as evidenced by a notice of
37 deficiency proposed to be assessed or a notice of tax
38 change, shall be deemed to have elected.

39 No water’s-edge election shall be made for an income
40 year beginning prior to January 1, 1988.

(b) A water's-edge election may be terminated by a taxpayer prior to the end of the 84-month period if either of the following occurs:

(1) The taxpayer is acquired directly or indirectly by a nonelecting entity which alone or together with those affiliates included in its combined report is larger than the taxpayer as measured by equity capital.

(2) With the permission of the Franchise Tax Board.

(c) In granting a change of election, the Franchise Tax Board shall impose any conditions that are necessary to prevent the avoidance of tax or to clearly reflect income for the period the election was, or was purported to be, in effect. These conditions may include a requirement that income, including dividends paid from income earned while a water's-edge election was in effect, which would have been included in determining the income of the taxpayer from sources within and without this state pursuant to Section 25101 but for the water's-edge election shall be included in income in the year in which the election is changed.

(d) If the taxpayer desires in any year not to renew the election, the taxpayer shall serve written notice of nonrenewal upon the board at least 90 days in advance of the annual renewal date. Unless that written notice is provided to the board, the election shall be considered renewed as provided in subdivision (a).

(e) If the taxpayer serves notice of intent in any year not to renew the existing water's-edge election, that existing election shall remain in effect for the balance of the period remaining since the original election or the last renewal of the election, as the case may be.

SEC. 116. Section 25112 of the Revenue and Taxation Code is amended to read:

25112. (a) If a taxpayer electing to file under Section 25110 fails to supply any information described in subdivision (b), the taxpayer shall pay a penalty of one thousand dollars (\$1,000) for each income year with respect to which the failure occurs.

(b) A taxpayer electing to file pursuant to Section 25110 shall do all of the following:

1 (1) Retain and make available to the Franchise Tax
2 Board, upon request, the documents and information,
3 including any questionnaires completed and submitted
4 to the Internal Revenue Service or qualified states, that
5 are necessary to audit issues involving attribution of
6 income to the United States or foreign jurisdictions under
7 Sections 482, 861, 863, 902, and 904, and Subpart F of Part
8 III of Subchapter N, or similar sections of the Internal
9 Revenue Code.

10 (2) Identify, upon request, principal officers or
11 employees who have substantial knowledge of, and access
12 to, documents and records that discuss pricing policies,
13 profit centers, cost centers, and the methods of allocating
14 income and expense among these centers. The
15 information shall include the employees' titles and
16 addresses.

17 (3) Retain and make available, upon request, all
18 documents and correspondence ordinarily available to a
19 corporation included in the water's-edge election that are
20 submitted to, or obtained from, the Internal Revenue
21 Service, foreign countries or their territories or
22 possessions, and competent authority pertaining to ruling
23 requests, rulings, settlement resolutions, and competing
24 claims involving jurisdictional assignment and sourcing of
25 income that affect the assignment of income to the
26 United States. The documents shall include all ruling
27 requests and rulings on reorganizations involving foreign
28 incorporation of branches, all ruling requests and rulings
29 on changing a corporation's jurisdictional incorporation,
30 and all documents that are ordinarily available to a
31 corporation included in the water's-edge election that
32 pertain to the determination of foreign tax liability,
33 including examination reports issued by foreign taxing
34 administrations. If the documents have been translated,
35 the translations shall be furnished.

36 (4) Retain and make available, upon request,
37 information filed with the Internal Revenue Service to
38 comply with Sections 6038, 6038A, 6038B, 6038C, and 6041
39 of the Internal Revenue Code.



(5) Upon request, prepare and make available for each corporation organized or created under the laws of the United States or a political subdivision thereof, of which 50 percent or more of its voting stock is directly or indirectly owned or controlled, the information that would be included in the forms described in paragraph (5) if those forms were required for United States corporations.

(6) Retain and make available, upon request, all state tax returns filed by each corporation included under subdivision (a) in each state, including the District of Columbia.

(7) Comply with reasonable requests for information necessary to determine or verify its net income, apportionment factors, or the geographic source of that income pursuant to the Internal Revenue Code.

(8) For purposes of this subdivision, information for any year shall be retained for that period of time in which the taxpayer's income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed or during which an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(c) If the failure continues for more than 90 days after the date on which the Franchise Tax Board mails notice of that failure to the taxpayer, the taxpayer shall pay a penalty (in addition to the amount required under subdivision (a)) of one thousand dollars (\$1,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The increase in any penalty under this subdivision shall not exceed twenty-four thousand dollars (\$24,000).

(d) If the taxpayer fails to comply substantially with any formal document request arising out of the examination of the tax treatment of any item (hereafter in this section referred to as the "examined item") before the 90th day after the date of the mailing of the request, any court having jurisdiction of a civil proceeding in

1 which the tax treatment of the examined item is an issue
2 may, upon motion by the Franchise Tax Board, prohibit
3 the introduction by the taxpayer of documentation
4 covered by that request.

5 (e) For purposes of this section, the time in which
6 information is to be furnished (and the beginning of the
7 90-day period after notice by the Franchise Tax Board)
8 shall be treated as beginning not earlier than the last day
9 on which reasonable cause existed for failure to furnish
10 the information.

11 (f) This section shall not apply with respect to any
12 requested documentation if the taxpayer establishes that
13 the failure to provide the documentation, as requested by
14 the Franchise Tax Board, is due to reasonable cause. For
15 purposes of subdivision (d), the fact that a foreign
16 jurisdiction would impose a civil or criminal penalty on
17 the taxpayer (or any other person) for disclosing the
18 requested documentation is not reasonable cause unless,
19 after in-camera review of the documentation, the court
20 finds otherwise.

21 (g) For purposes of this section, the term “formal
22 document request” means any request (made after the
23 normal request procedures have failed to produce the
24 requested documentation) for the production of
25 documentation that is mailed by registered or certified
26 mail to the taxpayer at its last known address and that sets
27 forth all of the following:

28 (1) The time and place for the production of the
29 documentation.

30 (2) A statement of the reason the documentation
31 previously produced (if any) is not sufficient.

32 (3) A description of the documentation being sought.

33 (4) The consequences to the taxpayer of the failure to
34 produce the documentation described in this section.

35 (h) Notwithstanding any other law or rule of law, any
36 taxpayer to whom a formal document request is mailed
37 may begin a proceeding to quash that request not later
38 than the 90th day after the date the request was mailed.
39 In that proceeding, the Franchise Tax Board may seek to
40 compel compliance with the request.

(i) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco shall have jurisdiction to hear any proceeding brought under subdivision (h). An order denying the petition shall be deemed a final order that may be appealed.

The running of the 90-day period referred to in subdivision (c) shall be suspended during any period during which a proceeding brought under subdivision (h) is pending.

(j) For purposes of this section, “documentation” means any documentation which may be relevant or material to the tax treatment of the examined item.

(k) The Franchise Tax Board, and any court having jurisdiction over a proceeding under subdivision (g), may extend the 90-day period referred to in subdivision (b).

(l) If any corporation takes any action as provided in subdivision (h), the running of any period of limitations under Sections 19057 to 19067, inclusive (relating to the assessment and collection of tax), or under Section 19704 (relating to criminal prosecutions) with respect to that corporation shall be suspended for the period during which the proceedings under subdivision (h) and appeals thereto are pending.

SEC. 117. Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If an apportioning trade or business derives more than 50 percent of its “gross business receipts” from conducting one or more qualified business activities, all business income of the apportioning trade or business shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a “qualified business activity” means the following:

- (1) An agricultural business activity.
- (2) An extractive business activity.
- (3) A savings and loan activity.
- (4) A banking or financial business activity.

(d) For purposes of this section:

(1) “Gross business receipts” means gross receipts described in subdivision (e) of Section 25120 (other than gross receipts from sales or other transactions within an apportioning trade or business between members of a group of corporations whose income and apportionment factors are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110), whether or not the receipts are excluded from the sales factor by operation of Section 25137.

(2) “Agricultural business activity” means activities relating to any stock, dairy, poultry, fruit, furbearing animal, or truck farm, plantation, ranch, nursery, or range. “Agricultural business activity” also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated.

(3) “Extractive business activity” means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) “Savings and loan activity” means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) “Banking or financial business activity” means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

1 (6) “Apportioning trade or business” means a distinct
2 trade or business whose business income is required to be
3 apportioned under Sections 25101 and 25120, limited, if
4 applicable, by Section 25110, using the same denominator
5 for each of the applicable payroll, property, and sales
6 factors.

7 (7) Paragraph (4) of subdivision (c) shall apply only if
8 the Franchise Tax Board adopts the Proposed Multistate
9 Tax Commission Formula for the Uniform
10 Apportionment of Net Income from Financial
11 Institutions, or its substantial equivalent, and shall
12 become operative upon the same operative date as the
13 adopted formula.

14 (8) In any case where the income and apportionment
15 factors of two or more affiliated savings associations or
16 corporations are required to be included in a combined
17 report under Section 25101, limited, if applicable, by
18 Section 25110, both of the following shall apply:

19 (A) The application of the more than 50 percent test
20 of subdivision (b) shall be made with respect to the “gross
21 business receipts” of the entire apportioning trade or
22 business of the group.

23 (B) The entire business income of the group shall be
24 apportioned in accordance with either subdivision (a) or
25 (b), as applicable.

26 SEC. 118. Section 1088.5 of the Unemployment
27 Insurance Code is amended to read:

28 1088.5. (a) In addition to information reported in
29 accordance with Section 1088, each employer shall file
30 with the department the information provided in
31 subdivision (b) on new employees.

32 (b) Each employer shall report all of the following
33 information to the department:

34 (1) The hiring of any person who resides or works in
35 this state to whom the employer anticipates paying
36 earnings.

37 (2) The rehiring or return to work of any person who
38 has been laid off, furloughed, separated, granted a leave
39 without pay, or terminated from employment, and to
40 whom the employer anticipates paying wages.

1 (c) Employers shall not be required to report on any
2 of the following persons:

3 (1) Any person whom the employer pays wages of less
4 than three hundred dollars (\$300) each month.

5 (2) Any person who is under 18 years of age.

6 (d) (1) The department and the State Department of
7 Social Services, jointly, shall adopt rules and regulations
8 to establish exemptions in addition to those provided in
9 subdivision (c), if the department and the State
10 Department of Social Services determine the exemptions
11 are needed to reduce unnecessary or burdensome
12 reporting or are needed to facilitate cost-effective
13 operation of this section.

14 (2) The department and the State Department of
15 Social Services shall adopt regulations required pursuant
16 to paragraph (1) by April 1, 1993.

17 (e) (1) Employers shall submit a report within 30 days
18 of the hiring, rehiring, or return to work of any person on
19 whom the employer is required to report pursuant to this
20 section.

21 (2) The report shall contain all of the following:

22 (A) The first initial and last name and social security
23 number of the person.

24 (B) The employer's name, address, and state
25 employer identification number.

26 (3) The report required by Section 1088 shall not be
27 accepted in lieu of the report required by this section.

28 (f) Employers may report pursuant to this section, by
29 submitting a copy of the employee's W-4 form, a form
30 provided by the department, or any other hiring
31 document, by mail or telefaxing or by any other means
32 that is authorized by the department and that will result
33 in timely reporting.

34 (g) The department shall retain information collected
35 pursuant to this section for no more than 180 days after
36 the end of the calendar quarter, except for purposes of
37 enforcement of subdivision (i).

38 (h) The department may use the information
39 collected pursuant to this section only for the following
40 purposes:

1 (1) The administration and enforcement of this
2 section.

3 (2) The identification, prevention, and collection of
4 benefit overpayments pursuant to any of the following
5 provisions:

6 (A) Article 4 (commencing with Section 1375) of
7 Chapter 5.

8 (B) Article 5 (commencing with Section 2735) of
9 Chapter 2 of Part 2.

10 (C) Section 3751.

11 (D) Section 4751.

12 (3) The location of noncustodial parents or the income
13 of noncustodial parents.

14 (4) The identification of errors in employer reports of
15 wages filed pursuant to Section 1088.

16 (5) The verification of employment of applicants for,
17 and recipients of, services under the Aid to Families with
18 Dependent Children program or the Food Stamp
19 Program, provided for pursuant to Chapter 2
20 (commencing with Section 11200) of Part 3 and Chapter
21 10 (commencing with Section 18900) of Part 6,
22 respectively, of Division 9 of the Welfare and Institutions
23 Code.

24 (6) The identification and collection of delinquent
25 liabilities under this code.

26 (7) To assist the department in determining the
27 effectiveness of its job placement services.

28 (i) Information obtained by the department pursuant
29 to this section may be released to the Franchise Tax Board
30 for tax enforcement purposes.

31 (j) The department shall provide a written notice to
32 any employer for the employer's first failure to report any
33 new hire, rehire, or return to work of an employee. For
34 each subsequent failure to report as required by this
35 section that occurs after the date the employer receives
36 notice from the department of his or her first failure to
37 report, unless the failure is due to good cause, the
38 employer shall be subject to a penalty of two hundred
39 fifty dollars (\$250).

1 (k) The department shall not enforce the employer
2 reporting requirements of this section until April 1, 1993,
3 or when regulations are adopted pursuant to subdivision
4 (d), whichever is sooner.

5 (l) For purposes of this section, “wages” means the
6 same as defined in Section 926.

7 SEC. 119. Section 56 of Chapter 952 of the Statutes of
8 1996 is amended to read:

9 Sec. 56. Except as otherwise provided, the provisions
10 of this act shall be applied to taxable or income years
11 beginning on or after January 1, 1997.

12 SEC. 120. The Legislature finds and declares that the
13 amendments to Sections 17052.15, 17053.45, 17053.46,
14 18402, 18604, 18606, 18621.5, 18637, 18638, 18662, 18670,
15 19009, 19011, 19023, 19024 (with respect to references to
16 a bank or corporation), 19058, 19132.5, 19141.5, 19141.6
17 (with respect to references to a bank or corporation),
18 19147, 19164, 19192, 19254, 19263, 19301, 19392, 19411,
19 19542, 19563, 19701, 19705, 19706, 19719, 23037, 23038,
20 23040.1, 23095, 23098, 23151, 23151.1, 23151.2, 23153 (with
21 respect to references to a bank or corporation), 23186,
22 23303, 23305.2, 23334, 23455 (with respect to references to
23 a bank or corporation), 23501, 23610.5, 23612.6 (with
24 respect to references to a bank or corporation), 23623.5,
25 23625, 23645 (with respect to references to a bank or
26 corporation), 23646 (with respect to references to a bank
27 or corporation), 23731, 24346, 24356.4, 24356.8, 24357,
28 24358, 24359, 24402, 24407, 24408, 24409, 24416, 24416.2,
29 24677, 24678, 24901, 24912, 24916, 24917, 24942, 25105,
30 25110, 25111, 25112, and 25128 of the Revenue and
31 Taxation Code made by this act are consistent with the
32 intent of the acts enacting those sections, and as such shall
33 apply from the original effective dates of those acts.

34 SEC. 121. The amendments made to Section 23186 of,
35 and the repeal of Sections 23186.1, 23186.2, and 23186.5 of,
36 the Revenue and Taxation Code by this act shall become
37 operative on January 1, 1998.

38 SEC. 122. Except as otherwise provided in Section 120
39 of this act, the amendments made to Sections 23101,
40 23153, and 24411 of the Revenue and Taxation Code by

1 this act shall apply to income years beginning on or after
2 January 1, 1998.

3 SEC. 123. The Legislature finds and declares that this
4 act repeals provisions that have been obsolete since
5 January 1, 1981, when the provisions of Chapter 1150 of
6 the Statutes of 1979 took effect, providing financial
7 corporations with the same taxation treatment as banks,
8 thereby prohibiting the imposition of personal property
9 taxes or business license taxes on financial corporations by
10 local jurisdictions. The repeal of Sections 23184, 23184.5,
11 23185, 23185a, and 23185b of the Revenue and Taxation
12 Code made by this act shall not affect any act done or any
13 right accruing or accrued, or any suit, appeal, or other
14 proceeding that commenced under any of those sections
15 before that repeal.

16 SEC. 124. This act provides for a tax levy within the
17 meaning of Article IV of the Constitution and shall go into
18 immediate effect. However, the individual sections of this
19 act shall become operative as otherwise specifically
20 provided in this act.

