

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1511**

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**Introduced by Assembly Member De León**

February 27, 2009

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An act to amend Sections 17276, 17276.9, 24416, and ~~24416.9~~ *24416.9*, and *25128* of, to add Sections 17276.11, 17276.12, 17276.13, 23663.1, 24416.11, 24416.12, 24416.13, and 25128.7 to, and to repeal Sections 17276.10, 23663, 24416.10, and 25128.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1511, as amended, De León. Income taxes: net operating losses: credit sharing: single sales factor.

Existing law allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2008, provides a carryover period of 20 years and allows net operating losses attributable to taxable years beginning on or after January 1, 2011, to be carrybacks to each of the preceding 2 taxable years. Existing law disallows the deduction for net operating losses and net operating loss carryovers in the 2008 and 2009 taxable years for a taxpayer with business income of \$500,000 or more and

extends the carryover period for those net operating losses, thus allowing the taxpayer to have the same number of years to utilize the deduction as it would have had if the disallowance for 2008 and 2009 had not occurred.

This bill would disallow the use of net operating loss carrybacks by individual and corporate taxpayers. This bill would also extend the disallowance of the net-~~operation~~ *operating* loss deduction and carryovers, and the carryover extension, to the 2010 and 2011 taxable years.

The Corporation Tax Law, for taxable years beginning on or after January 1, 2008, allows a credit to be assigned to an eligible assignee, as defined, for use by that assignee in a taxable year beginning on or after January 1, 2010.

This bill would delay the use of the assigned credit by an eligible assignee to taxable years beginning on or after January 1, 2012.

The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the business income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. Existing law, for taxable years beginning on or after January 1, 2011, allows a taxpayer required to apportion *its business income* in accordance with the 4-factor formula to make an annual election to have that business income apportioned in accordance with a single sales factor formula.

This bill would eliminate the authorization for specified taxpayers to elect to have business income apportioned in accordance with a single sales factor formula and instead require those taxpayers to apportion their *business* income in accordance with a single sales factor formula for taxable years beginning on or after January 1, 2012.

~~Under~~

~~Various provisions under the Personal Income Tax Law and the Corporation Tax Law, various provisions of conform to the federal Internal Revenue Code, including provisions relating to net operating losses, in the Revenue and Taxation Code, Chapter 14 of the Statutes of 2010 would change that specified date to January 1, 2010, for taxable~~

~~years beginning on or after that date that were chaptered by Chapter 14 of the Statutes of 2010 and apply to taxable years beginning on or after January 1, 2010.~~

This bill would add provisions relating to net operating losses that would conform to the provisions in Chapter 14 of the Statutes of 2010, as provided.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 17276 of the Revenue and Taxation Code  
2 is amended to read:

3 17276. Except as provided in Sections 17276.1, 17276.2,  
4 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided  
5 by Section 172 of the Internal Revenue Code, relating to a net  
6 operating loss deduction, shall be modified as follows:

7 (a) (1) Net operating losses attributable to taxable years  
8 beginning before January 1, 1987, shall not be allowed.

9 (2) A net operating loss shall not be carried forward to any  
10 taxable year beginning before January 1, 1987.

11 (b) (1) Except as provided in paragraphs (2) and (3), the  
12 provisions of Section 172(b)(2) of the Internal Revenue Code,  
13 relating to the amount of carryovers, shall be modified so that the  
14 applicable percentage of the entire amount of the net operating  
15 loss for any taxable year shall be eligible for carryover to any  
16 subsequent taxable year. For purposes of this subdivision, the  
17 applicable percentage shall be:

18 (A) Fifty percent for any taxable year beginning before January  
19 1, 2000.

20 (B) Fifty-five percent for any taxable year beginning on or after  
21 January 1, 2000, and before January 1, 2002.

22 (C) Sixty percent for any taxable year beginning on or after  
23 January 1, 2002, and before January 1, 2004.

1 (D) One hundred percent for any taxable year beginning on or  
2 after January 1, 2004.

3 (2) In the case of a taxpayer who has a net operating loss in any  
4 taxable year beginning on or after January 1, 1994, and who  
5 operates a new business during that taxable year, each of the  
6 following shall apply to each loss incurred during the first three  
7 taxable years of operating the new business:

8 (A) If the net operating loss is equal to or less than the net loss  
9 from the new business, 100 percent of the net operating loss shall  
10 be carried forward as provided in subdivision (d).

11 (B) If the net operating loss is greater than the net loss from the  
12 new business, the net operating loss shall be carried over as  
13 follows:

14 (i) With respect to an amount equal to the net loss from the new  
15 business, 100 percent of that amount shall be carried forward as  
16 provided in subdivision (d).

17 (ii) With respect to the portion of the net operating loss that  
18 exceeds the net loss from the new business, the applicable  
19 percentage of that amount shall be carried forward as provided in  
20 subdivision (d).

21 (C) For purposes of Section 172(b)(2) of the Internal Revenue  
22 Code, the amount described in clause (ii) of subparagraph (B) shall  
23 be absorbed before the amount described in clause (i) of  
24 subparagraph (B).

25 (3) In the case of a taxpayer who has a net operating loss in any  
26 taxable year beginning on or after January 1, 1994, and who  
27 operates an eligible small business during that taxable year, each  
28 of the following shall apply:

29 (A) If the net operating loss is equal to or less than the net loss  
30 from the eligible small business, 100 percent of the net operating  
31 loss shall be carried forward to the taxable years specified in  
32 subdivision (d).

33 (B) If the net operating loss is greater than the net loss from the  
34 eligible small business, the net operating loss shall be carried over  
35 as follows:

36 (i) With respect to an amount equal to the net loss from the  
37 eligible small business, 100 percent of that amount shall be carried  
38 forward as provided in subdivision (d).

39 (ii) With respect to that portion of the net operating loss that  
40 exceeds the net loss from the eligible small business, the applicable

1 percentage of that amount shall be carried forward as provided in  
2 subdivision (d).

3 (C) For purposes of Section 172(b)(2) of the Internal Revenue  
4 Code, the amount described in clause (ii) of subparagraph (B) shall  
5 be absorbed before the amount described in clause (i) of  
6 subparagraph (B).

7 (4) In the case of a taxpayer who has a net operating loss in a  
8 taxable year beginning on or after January 1, 1994, and who  
9 operates a business that qualifies as both a new business and an  
10 eligible small business under this section, that business shall be  
11 treated as a new business for the first three taxable years of the  
12 new business.

13 (5) In the case of a taxpayer who has a net operating loss in a  
14 taxable year beginning on or after January 1, 1994, and who  
15 operates more than one business, and more than one of those  
16 businesses qualifies as either a new business or an eligible small  
17 business under this section, paragraph (2) shall be applied first,  
18 except that if there is any remaining portion of the net operating  
19 loss after application of clause (i) of subparagraph (B) of that  
20 paragraph, paragraph (3) shall be applied to the remaining portion  
21 of the net operating loss as though that remaining portion of the  
22 net operating loss constituted the entire net operating loss.

23 (6) For purposes of this section, the term “net loss” means the  
24 amount of net loss after application of Sections 465 and 469 of the  
25 Internal Revenue Code.

26 (c) Net operating loss carrybacks shall not be allowed.

27 (d) (1) (A) For a net operating loss for any taxable year  
28 beginning on or after January 1, 1987, and before January 1, 2000,  
29 Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to  
30 years to which net operating losses may be carried, is modified to  
31 substitute “five taxable years” in lieu of “20 taxable years” except  
32 as otherwise provided in paragraphs (2) and (3).

33 (B) For a net operating loss for any taxable year beginning on  
34 or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal  
35 Revenue Code, relating to years to which net operating losses may  
36 be carried, is modified to substitute “10 taxable years” in lieu of  
37 “20 taxable years.”

38 (2) For any taxable year beginning before January 1, 2000, in  
39 the case of a “new business,” the “five taxable years” in paragraph  
40 (1) shall be modified to read as follows:

1 (A) “Eight taxable years” for a net operating loss attributable  
2 to the first taxable year of that new business.

3 (B) “Seven taxable years” for a net operating loss attributable  
4 to the second taxable year of that new business.

5 (C) “Six taxable years” for a net operating loss attributable to  
6 the third taxable year of that new business.

7 (3) For any carryover of a net operating loss for which a  
8 deduction is denied by Section 17276.3, the carryover period  
9 specified in this subdivision shall be extended as follows:

10 (A) By one year for a net operating loss attributable to taxable  
11 years beginning in 1991.

12 (B) By two years for a net operating loss attributable to taxable  
13 years beginning prior to January 1, 1991.

14 (4) The net operating loss attributable to taxable years beginning  
15 on or after January 1, 1987, and before January 1, 1994, shall be  
16 a net operating loss carryover to each of the 10 taxable years  
17 following the year of the loss if it is incurred by a taxpayer that is  
18 under the jurisdiction of the court in a Title 11 or similar case at  
19 any time during the income year. The loss carryover provided in  
20 the preceding sentence shall not apply to any loss incurred after  
21 the date the taxpayer is no longer under the jurisdiction of the court  
22 in a Title 11 or similar case.

23 (e) For purposes of this section:

24 (1) “Eligible small business” means any trade or business that  
25 has gross receipts, less returns and allowances, of less than one  
26 million dollars (\$1,000,000) during the taxable year.

27 (2) Except as provided in subdivision (f), “new business” means  
28 any trade or business activity that is first commenced in this state  
29 on or after January 1, 1994.

30 (3) “Title 11 or similar case” shall have the same meaning as  
31 in Section 368(a)(3) of the Internal Revenue Code.

32 (4) In the case of any trade or business activity conducted by a  
33 partnership or “S” corporation paragraphs (1) and (2) shall be  
34 applied to the partnership or “S” corporation.

35 (f) For purposes of this section, in determining whether a trade  
36 or business activity qualifies as a new business under paragraph  
37 (2) of subdivision (e), the following rules shall apply:

38 (1) In any case where a taxpayer purchases or otherwise acquires  
39 all or any portion of the assets of an existing trade or business  
40 (irrespective of the form of entity) that is doing business in this

1 state (within the meaning of Section 23101), the trade or business  
2 thereafter conducted by the taxpayer (or any related person) shall  
3 not be treated as a new business if the aggregate fair market value  
4 of the acquired assets (including real, personal, tangible, and  
5 intangible property) used by the taxpayer (or any related person)  
6 in the conduct of its trade or business exceeds 20 percent of the  
7 aggregate fair market value of the total assets of the trade or  
8 business being conducted by the taxpayer (or any related person).  
9 For purposes of this paragraph only, the following rules shall apply:

10 (A) The determination of the relative fair market values of the  
11 acquired assets and the total assets shall be made as of the last day  
12 of the first taxable year in which the taxpayer (or any related  
13 person) first uses any of the acquired trade or business assets in  
14 its business activity.

15 (B) Any acquired assets that constituted property described in  
16 Section 1221(1) of the Internal Revenue Code in the hands of the  
17 transferor shall not be treated as assets acquired from an existing  
18 trade or business, unless those assets also constitute property  
19 described in Section 1221(1) of the Internal Revenue Code in the  
20 hands of the acquiring taxpayer (or related person).

21 (2) In any case where a taxpayer (or any related person) is  
22 engaged in one or more trade or business activities in this state, or  
23 has been engaged in one or more trade or business activities in this  
24 state within the preceding 36 months (“prior trade or business  
25 activity”), and thereafter commences an additional trade or business  
26 activity in this state, the additional trade or business activity shall  
27 only be treated as a new business if the additional trade or business  
28 activity is classified under a different division of the Standard  
29 Industrial Classification (SIC) Manual published by the United  
30 States Office of Management and Budget, 1987 edition, than are  
31 any of the taxpayer’s (or any related person’s) current or prior  
32 trade or business activities.

33 (3) In any case where a taxpayer, including all related persons,  
34 is engaged in trade or business activities wholly outside of this  
35 state and the taxpayer first commences doing business in this state  
36 (within the meaning of Section 23101) after December 31, 1993  
37 (other than by purchase or other acquisition described in paragraph  
38 (1)), the trade or business activity shall be treated as a new business  
39 under paragraph (2) of subdivision (e).

1 (4) In any case where the legal form under which a trade or  
2 business activity is being conducted is changed, the change in form  
3 shall be disregarded and the determination of whether the trade or  
4 business activity is a new business shall be made by treating the  
5 taxpayer as having purchased or otherwise acquired all or any  
6 portion of the assets of an existing trade or business under the rules  
7 of paragraph (1) of this subdivision.

8 (5) “Related person” shall mean any person that is related to  
9 the taxpayer under either Section 267 or 318 of the Internal  
10 Revenue Code.

11 (6) “Acquire” shall include any gift, inheritance, transfer incident  
12 to divorce, or any other transfer, whether or not for consideration.

13 (7) (A) For taxable years beginning on or after January 1, 1997,  
14 the term “new business” shall include any taxpayer that is engaged  
15 in biopharmaceutical activities or other biotechnology activities  
16 that are described in Codes 2833 to 2836, inclusive, of the Standard  
17 Industrial Classification (SIC) Manual published by the United  
18 States Office of Management and Budget, 1987 edition, and as  
19 further amended, and that has not received regulatory approval for  
20 any product from the United States Food and Drug Administration.

21 (B) For purposes of this paragraph:

22 (i) “Biopharmaceutical activities” means those activities that  
23 use organisms or materials derived from organisms, and their  
24 cellular, subcellular, or molecular components, in order to provide  
25 pharmaceutical products for human or animal therapeutics and  
26 diagnostics. Biopharmaceutical activities make use of living  
27 organisms to make commercial products, as opposed to  
28 pharmaceutical activities that make use of chemical compounds  
29 to produce commercial products.

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

35 (g) In computing the modifications under Section 172(d)(2) of  
36 the Internal Revenue Code, relating to capital gains and losses of  
37 taxpayers other than corporations, the exclusion provided by  
38 Section 18152.5 shall not be allowed.

39 (h) Notwithstanding any provisions of this section to the  
40 contrary, a deduction shall be allowed to a “qualified taxpayer” as

1 provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6,  
2 and 17276.7.

3 (i) The Franchise Tax Board may prescribe appropriate  
4 regulations to carry out the purposes of this section, including any  
5 regulations necessary to prevent the avoidance of the purposes of  
6 this section through splitups, shell corporations, partnerships, tiered  
7 ownership structures, or otherwise.

8 (j) The Franchise Tax Board may reclassify any net operating  
9 loss carryover determined under either paragraph (2) or (3) of  
10 subdivision (b) as a net operating loss carryover under paragraph  
11 (1) of subdivision (b) upon a showing that the reclassification is  
12 necessary to prevent evasion of the purposes of this section.

13 (k) Except as otherwise provided, the amendments made by  
14 Chapter 107 of the Statutes of 2000 shall apply to net operating  
15 losses for taxable years beginning on or after January 1, 2000.

16 SEC. 2. Section 17276.9 of the Revenue and Taxation Code  
17 is amended to read:

18 17276.9. (a) Notwithstanding Sections 17276, 17276.1,  
19 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and  
20 Section 172 of the Internal Revenue Code, no net operating loss  
21 deduction shall be allowed for any taxable year beginning on or  
22 after January 1, 2008, and before January 1, 2010.

23 (b) For any net operating loss or carryover of a net operating  
24 loss for which a deduction is denied by subdivision (a), the  
25 carryover period under Section 172 of the Internal Revenue Code  
26 shall be extended as follows:

27 (1) By one year, for losses incurred in taxable years beginning  
28 on or after January 1, 2008, and before January 1, 2009.

29 (2) By two years, for losses incurred in taxable years beginning  
30 before January 1, 2008.

31 (c) The provisions of this section shall not apply to a taxpayer  
32 with net business income of less than five hundred thousand dollars  
33 (\$500,000) for the taxable year. For purposes of this subdivision,  
34 business income means:

35 (1) Income from a trade or business, whether conducted by the  
36 taxpayer or by a passthrough entity owned directly or indirectly  
37 by the taxpayer. For purposes of this paragraph, the term  
38 “passthrough entity” means a partnership or an “S” corporation.

39 (2) Income from rental activity.

40 (3) Income attributable to a farming business.

1 SEC. 3. Section 17276.10 of the Revenue and Taxation Code  
2 is repealed.

3 SEC. 4. Section 17276.11 is added to the Revenue and Taxation  
4 Code, to read:

5 17276.11. (a) Notwithstanding Sections 17276, 17276.1,  
6 17276.2, 17276.4, 17276.5, 17276.6, 17276.7, and 17276.9 of this  
7 code and Section 172 of the Internal Revenue Code, no net  
8 operating loss deduction shall be allowed for any taxable year  
9 beginning on or after January 1, 2010, and before January 1, 2012.

10 (b) For any net operating loss or carryover of a net operating  
11 loss for which a deduction is denied by subdivision (a), the  
12 carryover period under Section 172 of the Internal Revenue Code  
13 shall be extended as follows:

14 (1) By two years, for a total of four years pursuant to Section  
15 17276.9 and this section, for losses incurred in taxable years  
16 beginning before January 1, 2008.

17 (2) By one year, for a total of three years pursuant to Section  
18 17276.9 and this section, for losses incurred in taxable years  
19 beginning on or after January 1, 2008, and before January 1, 2009.

20 (3) By two years, for losses incurred in taxable years beginning  
21 on or after January 1, 2009, and before January 1, 2010.

22 (4) By one year, for losses incurred in taxable years beginning  
23 on or after January 1, 2010, and before January 1, 2011.

24 (c) The provisions of this section shall not apply to a taxpayer  
25 with net business income of less than five hundred thousand dollars  
26 (\$500,000) for the taxable year. For purposes of this subdivision,  
27 business income means:

28 (1) Income from a trade or business, whether conducted by the  
29 taxpayer or by a passthrough entity owned directly or indirectly  
30 by the taxpayer. For purposes of this paragraph, the term  
31 “passthrough entity” means a partnership or an “S” corporation.

32 (2) Income from rental activity.

33 (3) Income attributable to a farming business.

34 SEC. 5. Section 17276.12 is added to the Revenue and Taxation  
35 Code, to read:

36 17276.12. Notwithstanding Section 17276, 17276.1, 17276.2,  
37 17276.4, 17276.5, 17276.6, or 17276.7 to the contrary, a net  
38 operating loss attributable to a taxable year beginning on or after  
39 January 1, 2008, shall be a net operating carryover to each of the  
40 20 taxable years following the year of the loss.

1 SEC. 6. Section 17276.13 is added to the Revenue and Taxation  
2 Code, to read:

3 17276.13. (a) Notwithstanding any other law, in addition to  
4 the modifications made by Section 17276, the deduction provided  
5 by Section 172 of the Internal Revenue Code, relating to net  
6 operating loss deduction, shall be modified for the purposes of this  
7 part as follows:

8 (1) Section 172(b)(1)(J) of the Internal Revenue Code, relating  
9 to certain losses attributable to federally declared disasters, shall  
10 not apply.

11 (2) Section 172(j) of the Internal Revenue Code, relating to  
12 rules relating to qualified disaster losses, shall not apply.

13 (b) This section shall apply to taxable years beginning on or  
14 after January 1, 2010.

15 SEC. 7. Section 23663 of the Revenue and Taxation Code is  
16 repealed.

17 SEC. 8. Section 23663.1 is added to the Revenue and Taxation  
18 Code, to read:

19 23663.1. (a) (1) Notwithstanding any other law to the contrary,  
20 for each taxable year beginning on or after July 1, 2008, any credit  
21 allowed to a taxpayer under this chapter that is an “eligible-credit  
22 credit” (within the meaning of paragraph (2) of subdivision (b))  
23 may be assigned by that taxpayer to any “eligible assignee” (within  
24 the meaning of paragraph (3) of subdivision (b)).

25 (2) A credit assigned under paragraph (1) *or under former*  
26 *Section 23663* may only be applied by the eligible assignee against  
27 the “tax” of the eligible assignee in a taxable year beginning on  
28 or after January 1, 2012.

29 (3) Except as specifically provided in this section, following an  
30 assignment of any eligible credit under this section, the eligible  
31 assignee shall be treated as if it originally earned the assigned  
32 credit.

33 (b) For purposes of this section, the following definitions shall  
34 apply:

35 (1) “Affiliated corporation” means a corporation that is a  
36 member of a commonly controlled group as defined in Section  
37 25105.

38 (2) “Eligible credit” shall mean:

39 (A) Any credit earned by the taxpayer in a taxable year  
40 beginning on or after July 1, 2008, or

1 (B) Any credit earned in any taxable year beginning before July  
2 1, 2008, that is eligible to be carried forward to the taxpayer's first  
3 taxable year beginning on or after July 1, 2008, under the  
4 provisions of this part.

5 (3) "Eligible assignee" shall mean any affiliated corporation  
6 that is properly treated as a member of the same combined  
7 reporting group pursuant to Section 25101 or 25110 as the taxpayer  
8 assigning the eligible credit as of:

9 (A) In the case of credits earned in taxable years beginning  
10 before July 1, 2008:

11 (i) June 30, 2008, and

12 (ii) The last day of the taxable year of the assigning taxpayer  
13 in which the eligible credit is assigned.

14 (B) In the case of credits earned in taxable years beginning on  
15 or after July 1, 2008.

16 (i) The last day of the first taxable year in which the credit was  
17 allowed to the taxpayer, and

18 (ii) The last day of the taxable year of the assigning taxpayer  
19 in which the eligible credit is assigned.

20 (c) (1) The election to assign any credit under subdivision (a)  
21 shall be irrevocable once made, and shall be made by the taxpayer  
22 allowed that credit on its original return for the taxable year in  
23 which the assignment is made.

24 (2) The taxpayer assigning any credit under this section shall  
25 reduce the amount of its unused credit by the face amount of any  
26 credit assigned under this section, and the amount of the assigned  
27 credit shall not be available for application against the assigning  
28 taxpayer's "tax" in any taxable year, nor shall it thereafter be  
29 included in the amount of any credit carryover of the assigning  
30 taxpayer.

31 (3) The eligible assignee of any credit under this section may  
32 apply all or any portion of the assigned credits against the "tax"  
33 (as defined in Section 23036) of the eligible assignee for the taxable  
34 year in which the assignment occurs, or any subsequent taxable  
35 year, subject to any carryover period limitations that apply to the  
36 assigned credit and also subject to the limitation in paragraph (2)  
37 of subdivision (a).

38 (4) In no case may the eligible assignee sell, otherwise transfer,  
39 or thereafter assign the assigned credit to any other taxpayer.

1 (d) (1) No consideration shall be required to be paid by the  
2 eligible assignee to the assigning taxpayer for assignment of any  
3 credit under this section.

4 (2) In the event that any consideration is paid by the eligible  
5 assignee to the assigning taxpayer for the transfer of an eligible  
6 credit under this section, then:

7 (A) No deduction shall be allowed to the eligible assignee under  
8 this part with respect to any amounts so paid, and

9 (B) No amounts so received by the assigning taxpayer shall be  
10 includable in gross income under this part.

11 (e) (1) The Franchise Tax Board shall specify the form and  
12 manner in which the election required under this section shall be  
13 made, as well as any necessary information that shall be required  
14 to be provided by the taxpayer assigning the credit to the eligible  
15 assignee.

16 (2) Any taxpayer who assigns any credit under this section shall  
17 report any information, in the form and manner specified by the  
18 Franchise Tax Board, necessary to substantiate any credit assigned  
19 under this section and verify the assignment and subsequent  
20 application of any assigned credit.

21 (3) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
22 Division 3 of Title 2 of the Government Code shall not apply to  
23 any standard, criterion, procedure, determination, rule, notice, or  
24 guideline established or issued by the Franchise Tax Board  
25 pursuant to paragraphs (1) and (2).

26 (4) The Franchise Tax Board may issue any regulations  
27 necessary to implement the purposes of this section, including any  
28 regulations necessary to specify the treatment of any assignment  
29 that does not comply with the requirements of this section,  
30 including, for example, where the taxpayer and eligible assignee  
31 are not properly treated as members of the same combined  
32 reporting group on any of the dates specified in paragraph (3) of  
33 subdivision (b).

34 (f) (1) The taxpayer and the eligible assignee shall be jointly  
35 and severally liable for any tax, addition to tax, or penalty that  
36 results from the disallowance, in whole or in part, of any eligible  
37 credit assigned under this section.

38 (2) Nothing in this section shall limit the authority of the  
39 Franchise Tax Board to audit either the assigning taxpayer or the

1 eligible assignee with respect to any eligible credit assigned under  
 2 this section.

3 (g) Any credit assigned under former Section 23663 that was  
 4 assigned prior to the effective date of the repeal of Section 23663  
 5 shall be treated as if made under this section and shall be subject  
 6 to the limitations of this section, including the limitation of the  
 7 application of an assigned credit to taxable years beginning on or  
 8 after January 1, 2012.

9 ~~(g)~~

10 (h) On or before June 30, 2015, the Franchise Tax Board shall  
 11 report to the Joint Legislative Budget Committee, the Legislative  
 12 Analyst, and the relevant policy committees of both houses of the  
 13 Legislature on the effects of this section. The report shall include,  
 14 but need not be limited to, the following:

15 (1) An estimate of use of credits in the 2012 and 2013 taxable  
 16 years by eligible taxpayers.

17 (2) An analysis of effect of this section on expanding business  
 18 activity in the state related to these credits.

19 (3) An estimate of the resulting tax revenue loss to the state.

20 (4) The report shall cover all credits covered in this section, but  
 21 focus on the credits related to research and development, economic  
 22 incentive areas, and ~~low income~~ low-income housing.

23 SEC. 9. Section 24416 of the Revenue and Taxation Code is  
 24 amended to read:

25 24416. Except as provided in Sections 24416.1, 24416.2,  
 26 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss  
 27 deduction shall be allowed in computing net income under Section  
 28 24341 and shall be determined in accordance with Section 172 of  
 29 the Internal Revenue Code, except as otherwise provided.

30 (a) (1) Net operating losses attributable to taxable years  
 31 beginning before January 1, 1987, shall not be allowed.

32 (2) A net operating loss shall not be carried forward to any  
 33 taxable year beginning before January 1, 1987.

34 (b) (1) Except as provided in paragraphs (2) and (3), the  
 35 provisions of Section 172(b)(2) of the Internal Revenue Code,  
 36 relating to the amount of carryovers, shall be modified so that the  
 37 applicable percentage of the entire amount of the net operating  
 38 loss for any taxable year shall be eligible for carryover to any  
 39 subsequent taxable year. For purposes of this subdivision, the  
 40 applicable percentage shall be:

1 (A) Fifty percent for any taxable year beginning before January  
2 1, 2000.

3 (B) Fifty-five percent for any taxable year beginning on or after  
4 January 1, 2000, and before January 1, 2002.

5 (C) Sixty percent for any taxable year beginning on or after  
6 January 1, 2002, and before January 1, 2004.

7 (D) One hundred percent for any taxable year beginning on or  
8 after January 1, 2004.

9 (2) In the case of a taxpayer who has a net operating loss in any  
10 taxable year beginning on or after January 1, 1994, and who  
11 operates a new business during that taxable year, each of the  
12 following shall apply to each loss incurred during the first three  
13 taxable years of operating the new business:

14 (A) If the net operating loss is equal to or less than the net loss  
15 from the new business, 100 percent of the net operating loss shall  
16 be carried forward as provided in subdivision (e).

17 (B) If the net operating loss is greater than the net loss from the  
18 new business, the net operating loss shall be carried over as  
19 follows:

20 (i) With respect to an amount equal to the net loss from the new  
21 business, 100 percent of that amount shall be carried forward as  
22 provided in subdivision (e).

23 (ii) With respect to the portion of the net operating loss that  
24 exceeds the net loss from the new business, the applicable  
25 percentage of that amount shall be carried forward as provided in  
26 subdivision (d).

27 (C) For purposes of Section 172(b)(2) of the Internal Revenue  
28 Code, the amount described in clause (ii) of subparagraph (B) shall  
29 be absorbed before the amount described in clause (i) of  
30 subparagraph (B).

31 (3) In the case of a taxpayer who has a net operating loss in any  
32 taxable year beginning on or after January 1, 1994, and who  
33 operates an eligible small business during that taxable year, each  
34 of the following shall apply:

35 (A) If the net operating loss is equal to or less than the net loss  
36 from the eligible small business, 100 percent of the net operating  
37 loss shall be carried forward to the taxable years specified in  
38 paragraph (1) of subdivision (e).

1 (B) If the net operating loss is greater than the net loss from the  
2 eligible small business, the net operating loss shall be carried over  
3 as follows:

4 (i) With respect to an amount equal to the net loss from the  
5 eligible small business, 100 percent of that amount shall be carried  
6 forward as provided in subdivision (e).

7 (ii) With respect to that portion of the net operating loss that  
8 exceeds the net loss from the eligible small business, the applicable  
9 percentage of that amount shall be carried forward as provided in  
10 subdivision (e).

11 (C) For purposes of Section 172(b)(2) of the Internal Revenue  
12 Code, the amount described in clause (ii) of subparagraph (B) shall  
13 be absorbed before the amount described in clause (i) of  
14 subparagraph (B).

15 (4) In the case of a taxpayer who has a net operating loss in a  
16 taxable year beginning on or after January 1, 1994, and who  
17 operates a business that qualifies as both a new business and an  
18 eligible small business under this section, that business shall be  
19 treated as a new business for the first three taxable years of the  
20 new business.

21 (5) In the case of a taxpayer who has a net operating loss in a  
22 taxable year beginning on or after January 1, 1994, and who  
23 operates more than one business, and more than one of those  
24 businesses qualifies as either a new business or an eligible small  
25 business under this section, paragraph (2) shall be applied first,  
26 except that if there is any remaining portion of the net operating  
27 loss after application of clause (i) of subparagraph (B) of paragraph  
28 (2), paragraph (3) shall be applied to the remaining portion of the  
29 net operating loss as though that remaining portion of the net  
30 operating loss constituted the entire net operating loss.

31 (6) For purposes of this section, “net loss” means the amount  
32 of net loss after application of Sections 465 and 469 of the Internal  
33 Revenue Code.

34 (c) For any taxable year in which the taxpayer has in effect a  
35 water’s-edge election under Section 25110, the deduction of a net  
36 operating loss carryover shall be denied to the extent that the net  
37 operating loss carryover was determined by taking into account  
38 the income and factors of an affiliated corporation in a combined  
39 report whose income and apportionment factors would not have  
40 been taken into account if a water’s-edge election under Section

1 25110 had been in effect for the taxable year in which the loss was  
2 incurred.

3 (d) Net operating loss carrybacks shall not *be* allowed.

4 (e) (1) (A) For a net operating loss for any taxable year  
5 beginning on or after January 1, 1987, and before January 1, 2000,  
6 Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to  
7 years to which net operating losses may be carried, is modified to  
8 substitute “five taxable years” in lieu of “20 years” except as  
9 otherwise provided in paragraphs (2), (3), and (4).

10 (B) For a net operating loss for any income year beginning on  
11 or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal  
12 Revenue Code, relating to years to which net operating losses may  
13 be carried, is modified to substitute “10 taxable years” in lieu of  
14 “20 taxable years.”

15 (2) For any income year beginning before January 1, 2000, in  
16 the case of a “new business,” the “five taxable years” referred to  
17 in paragraph (1) shall be modified to read as follows:

18 (A) “Eight taxable years” for a net operating loss attributable  
19 to the first taxable year of that new business.

20 (B) “Seven taxable years” for a net operating loss attributable  
21 to the second taxable year of that new business.

22 (C) “Six taxable years” for a net operating loss attributable to  
23 the third taxable year of that new business.

24 (3) For any carryover of a net operating loss for which a  
25 deduction is denied by Section 24416.3, the carryover period  
26 specified in this subdivision shall be extended as follows:

27 (A) By one year for a net operating loss attributable to taxable  
28 years beginning in 1991.

29 (B) By two years for a net operating loss attributable to taxable  
30 years beginning prior to January 1, 1991.

31 (4) The net operating loss attributable to taxable years beginning  
32 on or after January 1, 1987, and before January 1, 1994, shall be  
33 a net operating loss carryover to each of the 10 taxable years  
34 following the year of the loss if it is incurred by a corporation that  
35 was either of the following:

36 (A) Under the jurisdiction of the court in a Title 11 or similar  
37 case at any time prior to January 1, 1994. The loss carryover  
38 provided in the preceding sentence shall not apply to any loss  
39 incurred in an income year after the taxable year during which the

1 corporation is no longer under the jurisdiction of the court in a  
2 Title 11 or similar case.

3 (B) In receipt of assets acquired in a transaction that qualifies  
4 as a tax-free reorganization under Section 368(a)(1)(G) of the  
5 Internal Revenue Code.

6 (f) For purposes of this section:

7 (1) “Eligible small business” means any trade or business that  
8 has gross receipts, less returns and allowances, of less than one  
9 million dollars (\$1,000,000) during the income year.

10 (2) Except as provided in subdivision (g), “new business” means  
11 any trade or business activity that is first commenced in this state  
12 on or after January 1, 1994.

13 (3) “Title 11 or similar case” shall have the same meaning as  
14 in Section 368(a)(3) of the Internal Revenue Code.

15 (4) In the case of any trade or business activity conducted by a  
16 partnership or an “S corporation,” paragraphs (1) and (2) shall be  
17 applied to the partnership or “S corporation.”

18 (g) For purposes of this section, in determining whether a trade  
19 or business activity qualifies as a new business under paragraph  
20 (2) of subdivision (e), the following rules shall apply:

21 (1) In any case where a taxpayer purchases or otherwise acquires  
22 all or any portion of the assets of an existing trade or business  
23 (irrespective of the form of entity) that is doing business in this  
24 state (within the meaning of Section 23101), the trade or business  
25 thereafter conducted by the taxpayer (or any related person) shall  
26 not be treated as a new business if the aggregate fair market value  
27 of the acquired assets (including real, personal, tangible, and  
28 intangible property) used by the taxpayer (or any related person)  
29 in the conduct of its trade or business exceeds 20 percent of the  
30 aggregate fair market value of the total assets of the trade or  
31 business being conducted by the taxpayer (or any related person).  
32 For purposes of this paragraph only, the following rules shall apply:

33 (A) The determination of the relative fair market values of the  
34 acquired assets and the total assets shall be made as of the last day  
35 of the first taxable year in which the taxpayer (or any related  
36 person) first uses any of the acquired trade or business assets in  
37 its business activity.

38 (B) Any acquired assets that constituted property described in  
39 Section 1221(1) of the Internal Revenue Code in the hands of the  
40 transferor shall not be treated as assets acquired from an existing

1 trade or business, unless those assets also constitute property  
2 described in Section 1221(1) of the Internal Revenue Code in the  
3 hands of the acquiring taxpayer (or related person).

4 (2) In any case where a taxpayer (or any related person) is  
5 engaged in one or more trade or business activities in this state, or  
6 has been engaged in one or more trade or business activities in this  
7 state within the preceding 36 months (“prior trade or business  
8 activity”), and thereafter commences an additional trade or business  
9 activity in this state, the additional trade or business activity shall  
10 only be treated as a new business if the additional trade or business  
11 activity is classified under a different division of the Standard  
12 Industrial Classification (SIC) Manual published by the United  
13 States Office of Management and Budget, 1987 edition, than are  
14 any of the taxpayer’s (or any related person’s) current or prior  
15 trade or business activities.

16 (3) In any case where a taxpayer, including all related persons,  
17 is engaged in trade or business activities wholly outside of this  
18 state and the taxpayer first commences doing business in this state  
19 (within the meaning of Section 23101) after December 31, 1993  
20 (other than by purchase or other acquisition described in paragraph  
21 (1)), the trade or business activity shall be treated as a new business  
22 under paragraph (2) of subdivision (e).

23 (4) In any case where the legal form under which a trade or  
24 business activity is being conducted is changed, the change in form  
25 shall be disregarded and the determination of whether the trade or  
26 business activity is a new business shall be made by treating the  
27 taxpayer as having purchased or otherwise acquired all or any  
28 portion of the assets of an existing trade or business under the rules  
29 of paragraph (1) of this subdivision.

30 (5) “Related person” shall mean any person that is related to  
31 the taxpayer under either Section 267 or 318 of the Internal  
32 Revenue Code.

33 (6) “Acquire” shall include any transfer, whether or not for  
34 consideration.

35 (7) (A) For taxable years beginning on or after January 1, 1997,  
36 the term “new business” shall include any taxpayer that is engaged  
37 in biopharmaceutical activities or other biotechnology activities  
38 that are described in Codes 2833 to 2836, inclusive, of the Standard  
39 Industrial Classification (SIC) Manual published by the United  
40 States Office of Management and Budget, 1987 edition, and as

1 further amended, and that has not received regulatory approval for  
2 any product from the United States Food and Drug Administration.

3 (B) For purposes of this paragraph:

4 (i) “Biopharmaceutical activities” means those activities that  
5 use organisms or materials derived from organisms, and their  
6 cellular, subcellular, or molecular components, in order to provide  
7 pharmaceutical products for human or animal therapeutics and  
8 diagnostics. Biopharmaceutical activities make use of living  
9 organisms to make commercial products, as opposed to  
10 pharmaceutical activities that make use of chemical compounds  
11 to produce commercial products.

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

17 (h) For purposes of corporations whose net income is determined  
18 under Chapter 17 (commencing with Section 25101), Section  
19 25108 shall apply to each of the following:

20 (1) The amount of net operating loss incurred in any taxable  
21 year that may be carried forward to another taxable year.

22 (2) The amount of any loss carry forward that may be deducted  
23 in any taxable year.

24 (i) The provisions of Section 172(b)(1)(D) of the Internal  
25 Revenue Code, relating to bad debt losses of commercial banks,  
26 shall not be applicable.

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

32 (k) The Franchise Tax Board may reclassify any net operating  
33 loss carryover determined under either paragraph (2) or (3) of  
34 subdivision (b) as a net operating loss carryover under paragraph  
35 (1) of subdivision (b) upon a showing that the reclassification is  
36 necessary to prevent evasion of the purposes of this section.

37 (l) Except as otherwise provided, the amendments made by  
38 Chapter 107 of the Statutes of 2000 shall apply to net operating  
39 losses for taxable years beginning on or after January 1, 2000.

1 SEC. 10. Section 24416.9 of the Revenue and Taxation Code  
2 is amended to read:

3 24416.9. (a) Notwithstanding Sections 24416, 24416.1,  
4 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and  
5 Section 172 of the Internal Revenue Code, no net operating loss  
6 deduction shall be allowed for any taxable year beginning on or  
7 after January 1, 2008, and before January 1, 2010.

8 (b) For any net operating loss or carryover of a net operating  
9 loss for which a deduction is denied by subdivision (a), the  
10 carryover period under Section 172 of the Internal Revenue Code  
11 shall be extended as follows:

12 (1) By one year, for losses incurred in taxable years beginning  
13 on or after January 1, 2008, and before January 1, 2009.

14 (2) By two years, for losses incurred in taxable years beginning  
15 before January 1, 2008.

16 (c) The provisions of this section shall not apply to a taxpayer  
17 with income subject to tax under this part of less than five hundred  
18 thousand dollars (\$500,000) for the taxable year.

19 SEC. 11. Section 24416.10 of the Revenue and Taxation Code  
20 is repealed.

21 SEC. 12. Section 24416.11 is added to the Revenue and  
22 Taxation Code, to read:

23 24416.11. (a) Notwithstanding Sections 24416, 24416.1,  
24 24416.2, 24416.4, 24416.5, 24416.6, 24416.7, and 24416.9 of this  
25 code and Section 172 of the Internal Revenue Code, no net  
26 operating loss deduction shall be allowed for any taxable year  
27 beginning on or after January 1, 2010, and before January 1, 2012.

28 (b) For any net operating loss or carryover of a net operating  
29 loss for which a deduction is denied by subdivision (a), the  
30 carryover period under Section 172 of the Internal Revenue Code  
31 shall be extended as follows:

32 (1) By two years, for a total of four years pursuant to Section  
33 24416.9 and this section, for losses incurred in taxable years  
34 beginning before January 1, 2008.

35 (2) By two years, for a total of three years pursuant to Section  
36 24416.9 and this section, for losses incurred in taxable years  
37 beginning on or after January 1, 2008, and before January 1, 2009.

38 (3) By two years, for losses incurred in taxable years beginning  
39 on or after January 1, 2009, and before January 1, 2010.

1 (4) By one year, for losses incurred in taxable years beginning  
 2 on or after January 1, 2010, and before January 1, 2011.

3 (c) The provisions of this section shall not apply to a taxpayer  
 4 with income subject to tax under this part of less than five hundred  
 5 thousand dollars (\$500,000) for the taxable year.

6 SEC. 13. Section 24416.12 is added to the Revenue and  
 7 Taxation Code, to read:

8 24416.12. Notwithstanding Section 24416, 24416.1, 24416.2,  
 9 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net  
 10 operating loss attributable to a taxable year beginning on or after  
 11 January 1, 2008, shall be a net operating carryover to each of the  
 12 20 taxable years following the year of the loss.

13 SEC. 14. Section 24416.13 is added to the Revenue and  
 14 Taxation Code, to read:

15 24416.13. (a) Notwithstanding any other law, in addition to  
 16 the modifications made by Section 24416, the deduction provided  
 17 by Section 172 of the Internal Revenue Code, relating to net  
 18 operating loss deduction, shall be modified for the purposes of this  
 19 part as follows:

20 (1) Section 172(b)(1)(J) of the Internal Revenue Code, relating  
 21 to certain losses attributable to federally declared disasters, shall  
 22 not apply.

23 (2) Section 172(j) of the Internal Revenue Code, relating to  
 24 rules relating to qualified disaster losses, shall not apply.

25 (b) This section shall ~~appear~~ *apply* to taxable years beginning  
 26 on or after January 1, 2010.

27 SEC. 15. Section 25128 of the Revenue and Taxation Code is  
 28 amended to read:

29 25128. (a) Notwithstanding Section 38006, all business income  
 30 shall be apportioned to this state by multiplying the business  
 31 income by a fraction, the numerator of which is the property factor  
 32 plus the payroll factor plus twice the sales factor, and the  
 33 denominator of which is four, except as provided in subdivision  
 34 (b) or (c).

35 (b) If an apportioning trade or business derives more than 50  
 36 percent of its “gross business receipts” from conducting one or  
 37 more qualified business activities, all business income of the  
 38 apportioning trade or business shall be apportioned to this state by  
 39 multiplying business income by a fraction, the numerator of which

1 is the property factor plus the payroll factor plus the sales factor,  
2 and the denominator of which is three.

3 (c) For purposes of this section, a “qualified business activity”  
4 means the following:

5 (1) An agricultural business activity.

6 (2) An extractive business activity.

7 (3) A savings and loan activity.

8 (4) A banking or financial business activity.

9 (d) For purposes of this section:

10 (1) “Gross business receipts” means gross receipts described in  
11 subdivision (e) or (f) of Section 25120 (other than gross receipts  
12 from sales or other transactions within an apportioning trade or  
13 business between members of a group of corporations whose  
14 income and apportionment factors are required to be included in  
15 a combined report under Section 25101, limited, if applicable, by  
16 Section 25110), whether or not the receipts are excluded from the  
17 sales factor by operation of Section 25137.

18 (2) “Agricultural business activity” means activities relating to  
19 any stock, dairy, poultry, fruit, furbearing animal, or truck farm,  
20 plantation, ranch, nursery, or range. “Agricultural business activity”  
21 also includes activities relating to cultivating the soil or raising or  
22 harvesting any agricultural or horticultural commodity, including,  
23 but not limited to, the raising, shearing, feeding, caring for, training,  
24 or management of animals on a farm as well as the handling,  
25 drying, packing, grading, or storing on a farm any agricultural or  
26 horticultural commodity in its unmanufactured state, but only if  
27 the owner, tenant, or operator of the farm regularly produces more  
28 than one-half of the commodity so treated.

29 (3) “Extractive business activity” means activities relating to  
30 the production, refining, or processing of oil, natural gas, or mineral  
31 ore.

32 (4) “Savings and loan activity” means any activities performed  
33 by savings and loan associations or savings banks which have been  
34 chartered by federal or state law.

35 (5) “Banking or financial business activity” means activities  
36 attributable to dealings in money or moneyed capital in substantial  
37 competition with the business of national banks.

38 (6) “Apportioning trade or business” means a distinct trade or  
39 business whose business income is required to be apportioned  
40 under Sections 25101 and 25120, limited, if applicable, by Section

1 25110, using the same denominator for each of the applicable  
2 payroll, property, and sales factors.

3 (7) Paragraph (4) of subdivision (c) shall apply only if the  
4 Franchise Tax Board adopts the Proposed Multistate Tax  
5 Commission Formula for the Uniform Apportionment of Net  
6 Income from Financial Institutions, or its substantial equivalent,  
7 and shall become operative upon the same operative date as the  
8 adopted formula.

9 (8) In any case where the income and apportionment factors of  
10 two or more savings associations or corporations are required to  
11 be included in a combined report under Section 25101, limited, if  
12 applicable, by Section 25110, both of the following shall apply:

13 (A) The application of the more than 50 percent test of  
14 subdivision (b) shall be made with respect to the “gross business  
15 receipts” of the entire apportioning trade or business of the group.

16 (B) The entire business income of the group shall be apportioned  
17 in accordance with either subdivision (a) or (b), or subdivision (b)  
18 of Section ~~25128.5~~ 25128.7, as applicable.

19 ~~SEC. 15.~~

20 *SEC. 16.* Section 25128.5 of the Revenue and Taxation Code  
21 is repealed.

22 ~~SEC. 16.~~

23 *SEC. 17.* Section 25128.7 is added to the Revenue and Taxation  
24 Code, to read:

25 25128.7. (a) Notwithstanding Section 38006, for taxable years  
26 beginning on or after January 1, 2012, any apportioning trade or  
27 business, other than an apportioning trade or business described  
28 in subdivision (b) of Section 25128, shall apportion its business  
29 income in accordance with this section, and not in accordance with  
30 Section 25128.

31 (b) Notwithstanding Section 38006, for taxable years beginning  
32 on or after January 1, 2012, all business income of an apportioning  
33 trade or business described in subdivision (a) shall be apportioned  
34 to this state by multiplying the business income by the sales factor.

35 (c) The Franchise Tax Board is authorized to issue regulations  
36 necessary or appropriate regarding the administration of this  
37 section.

38 (d) This section shall become operative on January 1, 2012.

1     ~~SEC. 17.~~

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

O