AMENDED IN SENATE JUNE 9, 2011

AMENDED IN SENATE JUNE 8, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL No. 18

Introduced by Assembly Member Blumenfield

May 19, 2011

An act to add Chapter 33 (commencing with Section 7599) to Division 7 of Title 1 of the Government Code, and to amend Sections 6051.7, 6201.7, 10752, 10752.1, 17041, 17054, and ~~7062~~ *17062* of, and to add Sections 7101.4, 10752.2, ~~11001.6, and 19136.14~~ *and 11001.6* to, the Revenue and Taxation Code, relating to local government finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Blumenfield. The Schools and Local Public Safety Protection Act of 2011.

(1) Existing law, until July 1, 2011, imposes a state sales and use tax on retailers and on the storage, use, or other consumption of tangible personal property in this state at the rate of 7 1/4% of the gross receipts from the retail sale of tangible personal property in this state and of the sales price of tangible personal property purchased from any retailer for storage, use, or other consumption in this state. Existing law reduces the state sales and use tax rate by 1% on July 1, 2011.

The Vehicle License Fee Law establishes, until July 1, 2011, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 1.15%

of the market value of that vehicle, as provided. Existing law, on and after July 1, 2011, reduces that rate to 0.65%.

This bill would extend the existing sales and use tax rate and vehicle license fees until July 1, 2012, and would deposit the revenues derived from that extension into the Local Revenue Fund 2011, established by this bill, to be appropriated by the Legislature to fund the provision of public safety services, as described. This bill would require local county officials to create a County Local Revenue Fund 2011, and would require the money in *the* County Local Revenue Fund 2011 to be used exclusively to fund the provision of public safety services by local agencies pursuant to the 2011 Realignment Legislation, as defined.

By imposing new duties upon local county officials with respect to the creation of the *County* Local Revenue Fund 2011, this bill would impose a state-mandated local program.

This bill would additionally require, when the rates in the above-described taxes cease to be operative, the state to annually provide moneys in at least an equivalent amount to fund the provision of public safety services, and would make an appropriation for this purpose from the General Fund if the Legislature does not appropriate sufficient funds for this purpose and transfer the moneys, as specified.

(2) The Personal Income Tax Law imposes taxes based upon taxable income. That law also allows credits for personal exemptions, and imposes an alternative minimum tax, as specified. Existing law, for taxable years beginning on or after January 1, 2009, and before January 1, 2011, decreased the amount allowable as a credit for personal exemption for dependents, increased the tax rate applicable to taxable income, and increased the alternative minimum tax rate, as provided.

This bill would continue the decrease in the amount allowable as a credit for personal exemption for dependents for taxable years beginning on or after January 1, 2011, and before January 1, 2013, and would increase the tax rate applicable to taxable income and the alternative minimum tax rate for taxable years beginning on or after January 1, 2012, and before January 1, 2013. This bill would require the additional revenue received from the imposition of these tax rates and from the continuation of the credit amounts to be used exclusively for the support of school districts and community college districts.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. This act shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2011."

SEC. 2. The people find and declare the following:

(a) The chief purpose of this act is to protect schools and local public safety by maintaining the level of certain taxes as they existed in 2010. These taxes shall be placed in dedicated special funds and be required to be used exclusively for schools and local public safety.

(b) This act is part of a broader state budget plan that makes billions of dollars in permanent cuts to state spending.

(c) This act guarantees solid, reliable funding for schools, community colleges, and public safety.

(d) This act keeps sales and use taxes and vehicle license fees at the same rates that were in effect in 2010, and requires that these tax rates automatically drop to 2008 levels in one year, and this act increases income taxes for one year beginning on or after January 1, 2012, to the same rates that were in effect in 2010. However, the extension of these tax increases may be retained for a longer period if a constitutional amendment extending these taxes is approved by the voters.

(e) This act also promotes transparency and supports improved outcomes in the delivery of public safety services.

(f) All revenues from this act are subject to audit by the independent Controller to ensure that they will be used only for schools and local public safety.

(g) This act guarantees that local governments will continue to receive funding for public safety services even after the tax rates drop to their 2008 levels.

SEC. 3. Chapter 33 (commencing with Section 7599) is added to Division 7 of Title 1 of the Government Code, to read:

Chapter 33. The Schools and Local Public Safety Protection Act of 2011

Article 1. Definitions

7599. For the purposes of this chapter:

(a) "Public Safety Services" includes the following:

(1) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(2) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(3) Preventing child abuse, neglect, or exploitation; providing services to children who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services, providing transitional housing and other services to emancipated youth, and providing adult protective services.

(4) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(5) Preventing, treating, and providing recovery services for substance abuse.

(b) "2011 Realignment Legislation" means legislation enacted on or before October 9, 2011, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements.

Article 2. Local Revenue Fund 2011

7599.1. The Local Revenue Fund 2011 is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, funds deposited in the Local Revenue Fund 2011, less costs of administering the fund, are continuously appropriated without regard to fiscal year exclusively to fund the provision of Public Safety Services by local agencies and, pending full implementation of the 2011 Realignment Legislation, to reimburse the state for costs incurred in providing Public Safety Services on behalf of local agencies. The manner of allocating funds to local agencies and reimbursing state costs shall be specified in the 2011 Realignment Legislation.

7599.2. The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be used exclusively to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

7599.3. The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the state's eligibility for federal matching funds, and to ensure compliance by the state with applicable federal standards governing the state's provision of Public Safety Services.

7599.4. The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

7599.5. (a) When the taxes described in Sections 6051.7, 6201.7, 10752, and 10752.1 of the Revenue and Taxation Code, as amended by the act adding this section, and in Section 10752.2 of the Revenue and Taxation Code, as added by the act adding this section, cease to be operative, the state shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the above-described taxes. The method for determining that amount shall be described in the 2011 Realignment Legislation, and the state shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation.

(b) If the Legislature fails to annually appropriate the minimum amount required by subdivision (a) to the Local Revenue Fund 2011, any shortfall, or the entire amount if no appropriation is made by the Legislature, is hereby appropriated from the General Fund, and the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

7599.6. (a) Legislation enacted after October 9, 2011, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this article, above the level for which funding has been provided.

(b) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(c) The state shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the state provides annual funding for the cost increase.

7599.7. (a) For programs described in paragraphs (3) to (5), inclusive, of subdivision (a) of Section 7599 and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the Legislature shall annually appropriate an amount equal to at least 50 percent of the nonfederal share of those costs as determined by the state from sources other than the 2011 Local Revenue Fund, ~~the Education Protection Fund,~~ ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund for allocation to local agencies.

(b) When the state is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in paragraphs (3) to (5), inclusive, of subdivision (a) of Section 7599 and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the Legislature shall appropriate for allocation to local agencies an amount equal to at least 50 percent of the nonfederal share of those costs as determined by the state. Payment by the state is not required if the state determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

7599.8. If the state or a local agency fails to perform a duty or obligation under this chapter or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

Article 3. Education Funding

7599.9. The additional revenue received from the imposition of the tax rates and from the continuation of the credit amounts allowed pursuant to Sections 17041, 17054, and 17062 of the Revenue and Taxation Code shall be used exclusively for the support of school districts and community college districts.

Article 4. Audits

7599.10. The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011 to ensure that those funds are used and accounted for in a manner consistent with this chapter.

SEC. 4. Section 6051.7 of the Revenue and Taxation Code is amended to read:

6051.7. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state, on and after April 1, 2009.

(b) This section shall cease to be operative on July 1, 2012.

SEC. 5. Section 6201.7 of the Revenue and Taxation Code is amended to read:

6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state, at the rate of 1 percent of the sales price of the property, on and after April 1, 2009.

(b) This section shall cease to be operative on July 1, 2012.

SEC. 6. Section 7101.4 is added to the Revenue and Taxation Code, to read:

7101.4. Notwithstanding Section 7101, on and after July 1, 2011, all revenues, less refunds and costs of collection and deposit, derived from the taxes imposed by Sections 6051.7 and 6201.7 shall be deposited in the State Treasury to the credit of the Local

Revenue Fund 2011, as established pursuant to Section 7599.1 of the Government Code.

SEC. 7. Section 10752 of the Revenue and Taxation Code, as amended by Section 4 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

10752. (a) The annual amount of the license fee for any vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code or a commercial motor vehicle described in Section 9400.1 of the Vehicle Code, or a trailer coach that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be a sum equal to the following percentage of the market value of the vehicle as determined by the department:

(1) Sixty-five hundredths of 1 percent on and after January 1, 2005, and before May 19, 2009.

(2) One percent on and after May 19, 2009.

(b) The annual amount of the license fee for any commercial vehicle as described in Section 9400.1 of the Vehicle Code, shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(c) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, attributable to that portion of the rate imposed pursuant to this section in excess of 0.65 percent shall be deposited into the General Fund.

(d) This section shall cease to be operative on July 1, 2012.

SEC. 8. Section 10752 of the Revenue and Taxation Code, as added by Section 5 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

10752. (a) The annual amount of the license fee for any vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code, or a trailer coach that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(b) This section shall become operative on July 1, 2012.

SEC. 9. Section 10752.1 of the Revenue and Taxation Code, as amended by Section 6 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

10752.1. (a) The annual amount of the license fee for a trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code shall be a sum equal to the following percentage of the market value of the vehicle as determined by the department:

(1) Sixty-five hundredths of 1 percent on and after January 1, 2005, and before May 19, 2009.

(2) One percent on and after May 19, 2009.

(b) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, attributable to that portion of the rate imposed pursuant to this section in excess of 0.65 percent shall be deposited in the General Fund.

(c) This section shall cease to be operative on July 1, 2012.

SEC. 10. Section 10752.1 of the Revenue and Taxation Code, as added by Section 7 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

10752.1. (a) The annual amount of the license fee for a trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(b) This section shall become operative on July 1, 2012.

SEC. 11. Section 10752.2 is added to the Revenue and Taxation Code, to read:

10752.2. (a) On and after July 1, 2011, in addition to the annual license fee for a vehicle, other than a commercial motor vehicle described in Section 9400.1 of the Vehicle Code, imposed pursuant to Sections 10752 and 10752.1, a sum equal to 0.15 percent of the market value of the vehicle as determined by the department, shall be added to that annual fee.

(b) This section shall cease to be operative on July 1, 2012.

SEC. 12. Section 11001.6 is added to the Revenue and Taxation Code, to read:

11001.6. Notwithstanding Section 11001, on and after July 1, ~~2011, all revenues, including penalties, less refunds and costs of collection and deposit, derived from thirty-five hundredths of 1 percent of the license fees imposed by Sections 10752 and 10752.1, and from the license fee imposed by Section 10752.2, shall be~~ *2011, 35 percent of the revenues, including penalties, less refunds* *and costs of collection and deposit, from the license fee imposed by Sections 10752 and 10752.1, and all revenues, including penalties, less refunds and costs of collection and deposit from the license fee imposed by Section 10752.2, shall be* deposited as follows:

(a) Eighty percent to the Local Revenue Fund 2011.

(b) Twenty percent to the General Fund ~~to be used exclusively for the support of school districts and community college districts.~~.

SEC. 13. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, the percentages specified in the table in

paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(3) For taxable years beginning on or after January 1, 2012, and before January 1, 2013, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300

Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(3) For taxable years beginning on or after January 1, 2012, and before January 1, 2013, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1(g) of the Internal Revenue Code, relating to certain unearned income of children taxed as if parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code is modified, for purposes of this part, by substituting "1 percent" for "10 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this part, the term "taxable income of a nonresident or part-year resident" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident.

(3) For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

SEC. 14. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals, the following credits for personal exemption may be deducted from the tax imposed under Section 17041 or 17048, less any increases imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(a) In the case of a single individual, a head of household, or a married individual making a separate return, a credit of fifty-two dollars ($52).

(b) In the case of a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of one hundred four dollars ($104). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) In addition to any other credit provided in this section, in the case of an individual who is 65 years of age or over by the end of the taxable year, a credit of fifty-two dollars ($52).

(d) (1) A credit of two hundred twenty-seven dollars ($227) for each dependent (as defined in Section 17056) for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to additional exemption for dependents. The credit allowed under this subdivision for taxable years beginning on or after January 1, 1999, shall not be adjusted pursuant to subdivision (i) for any taxable year beginning before January 1, 2000.

(2) The credit allowed under paragraph (1) may not be denied on the basis that the identification number of the dependent, as defined in Section 17056, for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to

additional exemption for dependents, is not included on the return claiming the credit.

(3) (A) For taxable years beginning on or after January 1, 2009, the credit allowed under paragraph (1) for each dependent shall be equal to the credit allowed under subdivision (a). This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(B) For taxable years that subparagraph (A) ceases to be operative, the credit allowed under paragraph (1) for each dependent shall be equal to the amount that would be allowed if subparagraph (A) had never been operative.

(e) A credit for personal exemption of fifty-two dollars ($52) for the taxpayer if he or she is blind at the end of his or her taxable year.

(f) A credit for personal exemption of fifty-two dollars ($52) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(g) For the purposes of this section, an individual is blind only if either (1) his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or (2) his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(h) In the case of an individual with respect to whom a credit under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to that individual for that individual's taxable year is zero.

(i) For each taxable year beginning on or after January 1, 1989, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding taxable year credits by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 15. 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 alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

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

(ii) For any taxable year beginning on or after January 1, 1996, and before January 1, 2009, 7 percent.

(iii) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, 7.25 percent.

(iv) For any taxable year beginning on and after January 1, 2011, and before January 1, 2012, 7 percent.

(v) For any taxable year beginning on and after January 1, 2012, and before January 1, 2013, 7.25 percent.

(vi) For any taxable year beginning on or after January 1, 2013, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term "alternative minimum taxable income of a nonresident or part-year resident" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing "alternative minimum taxable income of a nonresident or part-year resident," any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall

not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, "qualified taxpayer" means a taxpayer who meets both of the following:

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

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

(B) For purposes of this paragraph, "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of pass-through entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, "gross receipts, less returns and allowances" 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) For purposes of this paragraph, "proportionate interest" means:

(i) In the case of a pass-through entity that reports a profit for the taxable year, the taxpayer's profit interest in the entity at the end of the taxpayer's taxable year.

(ii) In the case of a pass-through entity that reports a loss for the taxable year, the taxpayer's loss interest in the entity at the end of the taxpayer's taxable year.

(iii) In the case of a pass-through entity that is sold or liquidates during the taxable year, the taxpayer's capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, "proportionate interest" includes an interest in a pass-through entity.

(ii) For purposes of this paragraph, "pass-through entity" means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An "S" corporation, as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24872.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars ($57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars ($42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars ($28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to phaseout of exemption amount, is modified, for purposes of this part, to provide the following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars ($214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars ($161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).

(C) One hundred seven thousand three hundred sixty-two dollars ($107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts

prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar ($1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) Section 57(a) of the Internal Revenue Code 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.

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

(g) The provisions of Section 56(d)(3), relating to net operating loss attributable to federally declared disasters, shall not apply.

~~SEC. 16. Section 19136.14 is added to the Revenue and Taxation Code, to read:~~

~~19136.14. An addition to tax shall not be imposed pursuant to Section 19136, with respect to any underpayment of a tax for a taxable year beginning before January 1, 2013, to the extent that the underpayment was created or increased by any provision of the act adding this section.~~

~~SEC. 17.~~

SEC. 16. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SEC. 18.~~

SEC. 17. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

~~SEC. 19.~~

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to properly address the current fiscal emergency, it is necessary that this act go into immediate effect.

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