

**Introduced by Committee on Revenue and Taxation  
(Senators Chesbro (Chair), Alpert, Bowen, Burton,  
Johnston, McPherson, and Poochigian)**

February 25, 2000

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An act to amend Section 6810 of the Corporations Code, and to amend Sections 17053.46, 17053.47, 18505, 18508, 18528, 18532, 18631, 18633, 18633.5, 18639, 19101, 19105, 19183, 19411, 23188, 23622.8, 23646, 23772, and 23802 of, to amend and renumber Sections 18503, 18547, 18552, 19104, and 19524 of, to add Sections 18505.3, 18531.5, 18635.5, 19120, and 23701i to, to repeal Sections 18504, 18507, 18636, 18637, 18638, 18641, 18643, 18645, 18647, 19102, 19103, 19106, 19111, 19115, and 23810 of, and to repeal and add Sections 23701b, 23701c, 23701e, 23701f, 23701g, 23701j, 23701l, 23701n, 23701s, 23702, 23704, 23704.3, 23704.4, 23704.5, 23704.6, and 23740 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 2176, as introduced, Committee on Revenue and Taxation. Income and bank and corporation taxes: federal conformity: clarifications.

The Personal Income Tax Law and the Bank and Corporation Tax Law provide specified credits for hiring qualified employees in connection with Local Agency Military Base Recovery Areas and Manufacturing Enhancement Areas.

This bill would make a specified vouchering procedure applicable to the hiring of those employees.

The Personal Income Tax Law, the Bank and Corporation Tax Law, and related administrative laws provide specified conformity to federal income tax law with respect to information returns, returns of individuals and fiduciaries, interest on unpaid tax and deficiencies, and exempt organizations.

This bill would provide additional conformity to those federal provisions, consolidate filing requirement provisions, delete obsolete provisions, and make related clarifying and technical changes.

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

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

1 SECTION 1. Section 6810 of the Corporations Code is  
 2 amended to read:  
 3 6810. (a) Upon the failure of a corporation to file the  
 4 statement required by Section 6210, the Secretary of State  
 5 shall mail a notice of such delinquency to the corporation.  
 6 The notice shall also contain information concerning the  
 7 application of this section, and advise the corporation of  
 8 the penalty imposed by Section 19141 of the Revenue and  
 9 Taxation Code for failure to timely file the required  
 10 statement after notice of delinquency has been mailed by  
 11 the Secretary of State. If, within 60 days after the mailing  
 12 of the notice of delinquency, a statement pursuant to  
 13 Section 6210 has not been filed by the corporation, the  
 14 Secretary of State may pursuant to regulation certify the  
 15 name of such corporation to the Franchise Tax Board.  
 16 (b) Upon certification pursuant to subdivision (a), the  
 17 Franchise Tax Board shall assess against the corporation  
 18 a penalty of fifty dollars (\$50) pursuant to Section ~~25936~~  
 19 *19141* of the Revenue and Taxation Code.  
 20 (c) The penalty herein provided shall not apply to a  
 21 corporation which on or prior to the date of certification  
 22 pursuant to subdivision (a) has dissolved or has been  
 23 merged into another corporation.  
 24 (d) The penalty herein provided shall not apply and  
 25 the Secretary of State need not mail a notice of



1 delinquency to a corporation the corporate powers, rights  
2 and privileges of which have been suspended by the  
3 Franchise Tax Board pursuant to Section 23301, 23301.5 or  
4 23775 of the Revenue and Taxation Code on or prior to,  
5 and remain suspended on, the last day of the filing period  
6 pursuant to Section 6210. The Secretary of State need not  
7 mail a form pursuant to Section 6210 to a corporation the  
8 corporate powers, rights and privileges of which have  
9 been so suspended by the Franchise Tax Board on or prior  
10 to, and remain suspended on, the day the Secretary of  
11 State prepares the forms for mailing.

12 (e) If, after certification pursuant to subdivision (a)  
13 the Secretary of State finds the required statement was  
14 filed before the expiration of the 60-day period after  
15 mailing of the notice of delinquency, the Secretary of  
16 State shall promptly decertify the name of the  
17 corporation to the Franchise Tax Board. The Franchise  
18 Tax Board shall then promptly abate any penalty assessed  
19 against the corporation pursuant to Section 19141 of the  
20 Revenue and Taxation Code.

21 (f) If the Secretary of State determines that the failure  
22 of a corporation to file a statement required by Section  
23 6210 is excusable because of reasonable cause or unusual  
24 circumstances which justify the failure, the Secretary of  
25 State may waive the penalty imposed by this section and  
26 by Section 19141 of the Revenue and Taxation Code, in  
27 which case the Secretary of State shall not certify the  
28 name of the corporation to the Franchise Tax Board, or  
29 if already certified, the Secretary of State shall promptly  
30 decertify the name of the corporation.

31 SEC. 2. Section 17053.46 of the Revenue and Taxation  
32 Code is amended to read:

33 17053.46. (a) For each taxable year beginning on or  
34 after January 1, 1995, there shall be allowed as a credit  
35 against the "net tax" (as defined in Section 17039) to a  
36 qualified taxpayer for hiring a qualified disadvantaged  
37 individual or a qualified displaced employee during the  
38 taxable year for employment in the LAMBRA. The credit  
39 shall be equal to the sum of each of the following:



- 1 (1) Fifty percent of the qualified wages in the first year  
2 of employment.
- 3 (2) Forty percent of the qualified wages in the second  
4 year of employment.
- 5 (3) Thirty percent of the qualified wages in the third  
6 year of employment.
- 7 (4) Twenty percent of the qualified wages in the  
8 fourth year of employment.
- 9 (5) Ten percent of the qualified wages in the fifth year  
10 of employment.
- 11 (b) For purposes of this section:
  - 12 (1) “Qualified wages” means:
    - 13 (A) That portion of wages paid or incurred by the  
14 employer during the taxable year to qualified  
15 disadvantaged individuals or qualified displaced  
16 employees that does not exceed 150 percent of the  
17 minimum wage.
    - 18 (B) The total amount of qualified wages which may be  
19 taken into account for purposes of claiming the credit  
20 allowed under this section shall not exceed two million  
21 dollars (\$2,000,000) per taxable year.
    - 22 (C) Wages received during the 60-month period  
23 beginning with the first day the individual commences  
24 employment with the taxpayer. Reemployment in  
25 connection with any increase, including a regularly  
26 occurring seasonal increase, in the trade or business  
27 operations of the qualified taxpayer does not constitute  
28 commencement of employment for purposes of this  
29 section.
    - 30 (D) Qualified wages do not include any wages paid or  
31 incurred by the qualified taxpayer on or after the  
32 LAMBRA expiration date. However, wages paid or  
33 incurred with respect to qualified disadvantaged  
34 individuals or qualified displaced employees who are  
35 employed by the qualified taxpayer within the LAMBRA  
36 within the 60-month period prior to the LAMBRA  
37 expiration date shall continue to qualify for the credit  
38 under this section after the LAMBRA expiration date, in  
39 accordance with all provisions of this section applied as if



1 the LAMBRA designation were still in existence and  
2 binding.

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

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

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

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

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

19 (B) Who is hired by the employer after the  
20 designation of the area as a LAMBRA in which the  
21 individual’s services were primarily performed.

22 (C) Who is any of the following immediately  
23 preceding the individual’s commencement of  
24 employment with the taxpayer:

25 (i) An individual who has been determined eligible for  
26 services under the federal Job Training Partnership Act  
27 (29 U.S.C. Sec. 1501 et seq.).

28 (ii) Any voluntary or mandatory registrant under the  
29 Greater Avenues for Independence Act of 1985 as  
30 provided pursuant to Article 3.2 (commencing with  
31 Section 11320) of Chapter 2 of Part 3 of Division 9 of the  
32 Welfare and Institutions Code.

33 (iii) An economically disadvantaged individual age 16  
34 years or older.

35 (iv) A dislocated worker who meets any of the  
36 following conditions:

37 (I) Has been terminated or laid off or who has  
38 received a notice of termination or layoff from  
39 employment, is eligible for or has exhausted entitlement



1 to unemployment insurance benefits, and is unlikely to  
2 return to his or her previous industry or occupation.

3 (II) Has been terminated or has received a notice of  
4 termination of employment as a result of any permanent  
5 closure or any substantial layoff at a plant, facility, or  
6 enterprise, including an individual who has not received  
7 written notification but whose employer has made a  
8 public announcement of such a closure or layoff.

9 (III) Is long-term unemployed and has limited  
10 opportunities for employment or reemployment in the  
11 same or a similar occupation in the area in which the  
12 individual resides, including an individual 55 years of age  
13 or older who may have substantial barriers to  
14 employment by reason of age.

15 (IV) Was self-employed (including farmers and  
16 ranchers) and is unemployed as a result of general  
17 economic conditions in the community in which he or she  
18 resides or because of natural disasters.

19 (V) Was a civilian employee of the Department of  
20 Defense employed at a military installation being closed  
21 or realigned under the Defense Base Closure and  
22 Realignment Act of 1990.

23 (VI) Was an active member of the armed forces or  
24 National Guard as of September 30, 1990, and was either  
25 involuntarily separated or separated pursuant to a special  
26 benefits program.

27 (VII) Experiences chronic seasonal unemployment  
28 and underemployment in the agriculture industry,  
29 aggravated by continual advancements in technology  
30 and mechanization.

31 (VIII) Has been terminated or laid off or has received  
32 a notice of termination or layoff as a consequence of  
33 compliance with the Clean Air Act.

34 (v) An individual who is enrolled in or has completed  
35 a state rehabilitation plan or is a service-connected  
36 disabled veteran, veteran of the Vietnam era, or veteran  
37 who is recently separated from military service.

38 (vi) An ex-offender. An individual shall be treated as  
39 convicted if he or she was placed on probation by a state  
40 court without a finding of guilty.



1 (vii) A recipient of:  
2 (I) Federal Supplemental Security Income benefits.  
3 (II) Aid to Families with Dependent Children.  
4 (III) Food stamps.  
5 (IV) State and local general assistance.  
6 (viii) Is a member of a federally recognized Indian  
7 tribe, band, or other group of Native American descent.  
8 (5) “Qualified taxpayer” means a taxpayer or  
9 partnership that conducts a trade or business within a  
10 LAMBRA and, for the first two taxable years, has a net  
11 increase in jobs (defined as 2,000 paid hours per employee  
12 per year) of one or more employees in the LAMBRA.  
13 (A) The net increase in the number of jobs shall be  
14 determined by subtracting the total number of full-time  
15 employees (defined as 2,000 paid hours per employee per  
16 year) the taxpayer employed in this state in the taxable  
17 year prior to commencing business operations in the  
18 LAMBRA from the total number of full-time employees  
19 the taxpayer employed in this state during the second  
20 taxable year after commencing business operations in the  
21 LAMBRA. For taxpayers who commence doing business  
22 in this state with their LAMBRA business operation, the  
23 number of employees for the taxable year prior to  
24 commencing business operations in the LAMBRA shall  
25 be zero. If the taxpayer has a net increase in jobs in the  
26 state, the credit shall be allowed only if one or more  
27 full-time employees is employed within the LAMBRA.  
28 (B) The total number of employees employed in the  
29 LAMBRA shall equal the sum of both of the following:  
30 (i) The total number of hours worked in the LAMBRA  
31 for the taxpayer by employees (not to exceed 2,000 hours  
32 per employee) who are paid an hourly wage divided by  
33 2,000.  
34 (ii) The total number of months worked in the  
35 LAMBRA for the taxpayer by employees who are salaried  
36 employees divided by 12.  
37 (C) In the case of a taxpayer who first commences  
38 doing business in the LAMBRA during the taxable year,  
39 for purposes of clauses (i) and (ii), respectively, of  
40 subparagraph (B), the divisors “2,000” and “12” shall be



1 multiplied by a fraction, the numerator of which is the  
2 number of months of the taxable year that the taxpayer  
3 was doing business in the LAMBRA and the denominator  
4 of which is 12.

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

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

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

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

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

20 (7) “Seasonal employment” means employment by a  
21 qualified taxpayer that has regular and predictable  
22 substantial reductions in trade or business operations.

23 (8) “LAMBRA expiration date” means the date the  
24 LAMBRA designation expires, is no longer binding, or  
25 becomes inoperative.

26 (c) *For qualified disadvantaged individuals or*  
27 *qualified displaced employees hired on or after January*  
28 *1, 2001, the taxpayer shall do both of the following:*

29 (1) *Obtain from either the Employment*  
30 *Development Department, as permitted by federal law,*  
31 *or the local county or city Job Training Partnership Act*  
32 *administrative entity or the local county GAIN office or*  
33 *social services agency, as appropriate, a certification that*  
34 *provides that a qualified disadvantaged individual meets*  
35 *the eligibility requirements specified in subparagraph*  
36 *(C) of paragraph (4) of subdivision (b) or subparagraph*  
37 *(A) of paragraph (6) of subdivision (b). The*  
38 *Employment Development Department may provide*  
39 *preliminary screening and referral to a certifying agency.*



1 *The Employment Development Department shall*  
2 *develop a form for this purpose.*

3 (2) *Retain a copy of the certification and provide it*  
4 *upon request to the Franchise Tax Board.*

5 (d) (1) For purposes of this section, both of the  
6 following apply:

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

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

14 The regulations prescribed under this paragraph shall  
15 be based on principles similar to the principles that apply  
16 in the case of controlled groups of corporations as  
17 specified in subdivision (e) of Section 23622.

18 (2) If an employer acquires the major portion of a  
19 trade or business of another employer (hereinafter in this  
20 paragraph referred to as the “predecessor”) or the major  
21 portion of a separate unit of a trade or business of a  
22 predecessor, then, for purposes of applying this section  
23 (other than subdivision ~~(d)~~ (e)) for any calendar year  
24 ending after that acquisition, the employment  
25 relationship between an employee and an employer shall  
26 not be treated as terminated if the employee continues to  
27 be employed in that trade or business.

28 ~~(d)~~

29 (e) (1) (A) If the employment, other than seasonal  
30 employment, of any employee, with respect to whom  
31 qualified wages are taken into account under subdivision  
32 (a) is terminated by the taxpayer at any time during the  
33 first 270 days of that employment (whether or not  
34 consecutive) or before the close of the 270th calendar day  
35 after the day in which that employee completes 90 days  
36 of employment with the taxpayer, the tax imposed by this  
37 part for the taxable year in which that employment is  
38 terminated shall be increased by an amount (determined  
39 under those regulations) equal to the credit allowed  
40 under subdivision (a) for that taxable year and all prior



1 taxable years attributable to qualified wages paid or  
2 incurred with respect to that employee.

3 (B) If the seasonal employment of any qualified  
4 disadvantaged individual, with respect to whom qualified  
5 wages are taken into account under subdivision (a) is not  
6 continued by the qualified taxpayer for a period of 270  
7 days of employment during the 60-month period  
8 beginning with the day the qualified disadvantaged  
9 individual commences seasonal employment with the  
10 qualified taxpayer, the tax imposed by this part, for the  
11 taxable year that includes the 60th month following the  
12 month in which the qualified disadvantaged individual  
13 commences seasonal employment with the qualified  
14 taxpayer, shall be increased by an amount equal to the  
15 credit allowed under subdivision (a) for that taxable year  
16 and all prior taxable years attributable to qualified wages  
17 paid or incurred with respect to that qualified  
18 disadvantaged individual.

19 (2) (A) Subparagraph (A) of paragraph (1) shall not  
20 apply to any of the following:

21 (i) A termination of employment of an employee who  
22 voluntarily leaves the employment of the taxpayer.

23 (ii) A termination of employment of an individual  
24 who, before the close of the period referred to in  
25 subparagraph (A) of paragraph (1), becomes disabled to  
26 perform the services of that employment, unless that  
27 disability is removed before the close of that period and  
28 the taxpayer fails to offer reemployment to that  
29 individual.

30 (iii) A termination of employment of an individual, if  
31 it is determined that the termination was due to the  
32 misconduct (as defined in Sections 1256-30 to 1256-43,  
33 inclusive, of Title 22 of the California Code of  
34 Regulations) of that individual.

35 (iv) A termination of employment of an individual due  
36 to a substantial reduction in the trade or business  
37 operations of the taxpayer.

38 (v) A termination of employment of an individual, if  
39 that individual is replaced by other qualified employees



1 so as to create a net increase in both the number of  
2 employees and the hours of employment.

3 (B) Subparagraph (B) of paragraph (1) shall not apply  
4 to any of the following:

5 (i) A failure to continue the seasonal employment of  
6 a qualified disadvantaged individual who voluntarily fails  
7 to return to the seasonal employment of the qualified  
8 taxpayer.

9 (ii) A failure to continue the seasonal employment of  
10 a qualified disadvantaged individual who, before the  
11 close of the period referred to in subparagraph (B) of  
12 paragraph (1), becomes disabled and unable to perform  
13 the services of that seasonal employment, unless that  
14 disability is removed before the close of that period and  
15 the qualified taxpayer fails to offer seasonal employment  
16 to that individual.

17 (iii) A failure to continue the seasonal employment of  
18 a qualified disadvantaged individual, if it is determined  
19 that the failure to continue the seasonal employment was  
20 due to the misconduct (as defined in Sections 1256-30 to  
21 1256-43, inclusive, of Title 22 of the California Code of  
22 Regulations) of that qualified disadvantaged individual.

23 (iv) A failure to continue seasonal employment of a  
24 qualified disadvantaged individual due to a substantial  
25 reduction in the regular seasonal trade or business  
26 operations of the qualified taxpayer.

27 (v) A failure to continue the seasonal employment of  
28 a qualified disadvantaged individual, if that individual is  
29 replaced by other qualified displaced employees so as to  
30 create a net increase in both the number of seasonal  
31 employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment  
33 relationship between the taxpayer and an employee shall  
34 not be treated as terminated by reason of a mere change  
35 in the form of conducting the trade or business of the  
36 taxpayer, if the employee continues to be employed in  
37 that trade or business and the taxpayer retains a  
38 substantial interest in that trade or business.

39 (3) Any increase in tax under paragraph (1) shall not  
40 be treated as tax imposed by this part for purposes of



1 determining the amount of any credit allowable under  
2 this part.

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

9 ~~(e)~~

10 (f) In the case of an estate or trust, both of the  
11 following apply:

12 (1) The qualified wages for any taxable year shall be  
13 apportioned between the estate or trust and the  
14 beneficiaries on the basis of the income of the estate or  
15 trust allocable to each.

16 (2) Any beneficiary to whom any qualified wages have  
17 been apportioned under paragraph (1) shall be treated  
18 (for purposes of this part) as the employer with respect  
19 to those wages.

20 ~~(f)~~

21 (g) The credit shall be reduced by the credit allowed  
22 under Section 17053.7. The credit shall also be reduced  
23 by the federal credit allowed under Section 51 of the  
24 Internal Revenue Code.

25 In addition, any deduction otherwise allowed under  
26 this part for the wages or salaries paid or incurred by the  
27 taxpayer upon which the credit is based shall be reduced  
28 by the amount of the credit, prior to any reduction  
29 required by subdivision ~~(g)~~ or (h) or (i).

30 ~~(g)~~

31 (h) In the case where the credit otherwise allowed  
32 under this section exceeds the "net tax" for the taxable  
33 year, that portion of the credit that exceeds the "net tax"  
34 may be carried over and added to the credit, if any, in  
35 succeeding years, until the credit is exhausted. The credit  
36 shall be applied first to the earliest taxable years possible.

37 ~~(h)~~

38 (i) (1) The amount of credit otherwise allowed under  
39 this section and Section 17053.45, including prior year  
40 credit carryovers, that may reduce the "net tax" for the



1 taxable year shall not exceed the amount of tax that would  
2 be imposed on the taxpayer's business income attributed  
3 to a LAMBRA determined as if that attributed income  
4 represented all of the net income of the taxpayer subject  
5 to tax under this part.

6 (2) Attributable income shall be that portion of the  
7 taxpayer's California source business income that is  
8 apportioned to the LAMBRA. For that purpose, the  
9 taxpayer's business income that is attributable to sources  
10 in this state first shall be determined in accordance with  
11 Chapter 17 (commencing with Section 25101) of Part 11.  
12 That business income shall be further apportioned to the  
13 LAMBRA in accordance with Article 2 (commencing  
14 with Section 25120) of Chapter 17 of Part 11, modified for  
15 purposes of this section in accordance with paragraph  
16 (3).

17 (3) Income shall be apportioned to a LAMBRA by  
18 multiplying the total California business income of the  
19 taxpayer by a fraction, the numerator of which is the  
20 property factor plus the payroll factor, and the  
21 denominator of which is two. For purposes of this  
22 paragraph:

23 (A) The property factor is a fraction, the numerator of  
24 which is the average value of the taxpayer's real and  
25 tangible personal property owned or rented and used in  
26 the LAMBRA during the taxable year, and the  
27 denominator of which is the average value of all the  
28 taxpayer's real and tangible personal property owned or  
29 rented and used in this state during the taxable year.

30 (B) The payroll factor is a fraction, the numerator of  
31 which is the total amount paid by the taxpayer in the  
32 LAMBRA during the taxable year for compensation, and  
33 the denominator of which is the total compensation paid  
34 by the taxpayer in this state during the taxable year.

35 (4) The portion of any credit remaining, if any, after  
36 application of this subdivision, shall be carried over to  
37 succeeding taxable years, as if it were an amount  
38 exceeding the "net tax" for the taxable year, as provided  
39 in subdivision ~~(g)~~ (h).

40 ~~(i)~~



1 (j) If the taxpayer is allowed a credit pursuant to this  
2 section for qualified wages paid or incurred, only one  
3 credit shall be allowed to the taxpayer under this part  
4 with respect to any wage consisting in whole or in part of  
5 those qualified wages.

6 SEC. 3. Section 17053.47 of the Revenue and Taxation  
7 Code is amended to read:

8 17053.47. (a) For each taxable year beginning on or  
9 after January 1, 1998, there shall be allowed a credit  
10 against the “net tax” (as defined in Section 17039) to a  
11 qualified taxpayer for hiring a qualified disadvantaged  
12 individual during the taxable year for employment in the  
13 Manufacturing Enhancement Area. The credit shall be  
14 equal to the sum of each of the following:

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

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

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

21 (4) Twenty percent of the qualified wages in the  
22 fourth year of employment.

23 (5) Ten percent of the qualified wages in the fifth year  
24 of employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) That portion of wages paid or incurred by the  
28 qualified taxpayer during the taxable year to qualified  
29 disadvantaged individuals that does not exceed 150  
30 percent of the minimum wage.

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

35 (C) Wages received during the 60-month period  
36 beginning with the first day the qualified disadvantaged  
37 individual commences employment with the qualified  
38 taxpayer. Reemployment in connection with any  
39 increase, including a regularly occurring seasonal  
40 increase, in the trade or business operations of the



1 taxpayer does not constitute commencement of  
2 employment for purposes of this section.

3 (D) Qualified wages do not include any wages paid or  
4 incurred by the qualified taxpayer on or after the  
5 Manufacturing Enhancement Area expiration date.  
6 However, wages paid or incurred with respect to  
7 qualified employees who are employed by the qualified  
8 taxpayer within the Manufacturing Enhancement Area  
9 within the 60-month period prior to the Manufacturing  
10 Enhancement Area expiration date shall continue to  
11 qualify for the credit under this section after the  
12 Manufacturing Enhancement Area expiration date, in  
13 accordance with all provisions of this section applied as if  
14 the Manufacturing Enhancement Area designation were  
15 still in existence and binding.

16 (2) “Minimum wage” means the wage established by  
17 the Industrial Welfare Commission as provided for in  
18 Chapter 1 (commencing with Section 1171) of Part 4 of  
19 Division 2 of the Labor Code.

20 (3) “Manufacturing Enhancement Area” means an  
21 area designated pursuant to Section 7073.8 of the  
22 Government Code according to the procedures of  
23 Chapter 12.8 (commencing with Section 7070) of  
24 Division 7 of Title 1 of the Government Code.

25 (4) “Manufacturing Enhancement Area expiration  
26 date” means the date the Manufacturing Enhancement  
27 Area designation expires, is no longer binding, or  
28 becomes inoperative.

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

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

35 (ii) Who performs at least 50 percent of his or her  
36 services for the qualified taxpayer during the taxable year  
37 in the Manufacturing Enhancement Area.

38 (B) Who is hired by the qualified taxpayer after the  
39 designation of the area as a Manufacturing Enhancement



1 Area in which the individual's services were primarily  
2 performed.

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

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

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

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

18 (6) "Qualified taxpayer" means any taxpayer engaged  
19 in a trade or business within a Manufacturing  
20 Enhancement Area designated pursuant to Section  
21 7073.8 of the Government Code and who meets both of  
22 the following requirements:

23 (A) Is engaged in those lines of business described in  
24 Codes 2011 to 3999, inclusive, of the Standard Industrial  
25 Classification (SIC) Manual published by the United  
26 States Office of Management and Budget, 1987 edition.

27 (B) At least 50 percent of the qualified taxpayer's work  
28 force hired after the designation of the Manufacturing  
29 Enhancement Area is composed of individuals who, at the  
30 time of hire, are residents of the county in which the  
31 Manufacturing Enhancement Area is located.

32 (C) Of this percentage of local hires, at least 30  
33 percent shall be qualified disadvantaged individuals.

34 (7) "Seasonal employment" means employment by a  
35 qualified taxpayer that has regular and predictable  
36 substantial reductions in trade or business operations.

37 (c) *For qualified disadvantaged individuals hired on*  
38 *or after January 1, 2001, the taxpayer shall do both of the*  
39 *following:*



1 (1) Obtain from either the Employment  
2 Development Department, as permitted by federal law,  
3 or the local county or city Job Training Partnership Act  
4 administrative entity or the local county GAIN office or  
5 social services agency, as appropriate, a certification that  
6 provides that a qualified disadvantaged individual or  
7 qualified displaced employee meets the eligibility  
8 requirements specified in subparagraph (C) of  
9 paragraph (5) of subdivision (b). The Employment  
10 Development Department may provide preliminary  
11 screening and referral to a certifying agency. The  
12 Employment Development Department shall develop a  
13 form for this purpose.

14 (2) Retain a copy of the certification and provide it  
15 upon request to the Franchise Tax Board.

16 (d) (1) For purposes of this section, all of the  
17 following apply:

18 (A) All employees of trades or businesses that are  
19 under common control shall be treated as employed by  
20 a single qualified taxpayer.

21 (B) The credit (if any) allowable by this section with  
22 respect to each trade or business shall be determined by  
23 reference to its proportionate share of the expense of the  
24 qualified wages giving rise to the credit and shall be  
25 allocated in that manner.

26 (C) Principles that apply in the case of controlled  
27 groups of corporations, as specified in subdivision (d) of  
28 Section 23622.7, shall apply with respect to determining  
29 employment.

30 (2) If a qualified taxpayer acquires the major portion  
31 of a trade or business of another employer (hereinafter in  
32 this paragraph referred to as the “predecessor”) or the  
33 major portion of a separate unit of a trade or business of  
34 a predecessor, then, for purposes of applying this section  
35 (other than subdivision—~~(d)~~ (e)) for any calendar year  
36 ending after that acquisition, the employment  
37 relationship between a qualified disadvantaged  
38 individual and a qualified taxpayer shall not be treated as  
39 terminated if the qualified disadvantaged individual  
40 continues to be employed in that trade or business.



1 ~~(d)~~

2 (e) (1) (A) If the employment, other than seasonal  
3 employment, of any qualified disadvantaged individual,  
4 with respect to whom qualified wages are taken into  
5 account under subdivision (b) is terminated by the  
6 qualified taxpayer at any time during the first 270 days of  
7 that employment (whether or not consecutive) or before  
8 the close of the 270th calendar day after the day in which  
9 that qualified disadvantaged individual completes 90 days  
10 of employment with the qualified taxpayer, the tax  
11 imposed by this part for the taxable year in which that  
12 employment is terminated shall be increased by an  
13 amount equal to the credit allowed under subdivision (a)  
14 for that taxable year and all prior taxable years  
15 attributable to qualified wages paid or incurred with  
16 respect to that qualified disadvantaged individual.

17 (B) If the seasonal employment of any qualified  
18 disadvantaged individual, with respect to whom qualified  
19 wages are taken into account under subdivision (a) is not  
20 continued by the qualified taxpayer for a period of 270  
21 days of employment during the 60-month period  
22 beginning with the day the qualified disadvantaged  
23 individual commences seasonal employment with the  
24 qualified taxpayer, the tax imposed by this part, for the  
25 taxable year that includes the 60th month following the  
26 month in which the qualified disadvantaged individual  
27 commences seasonal employment with the qualified  
28 taxpayer, shall be increased by an amount equal to the  
29 credit allowed under subdivision (a) for that taxable year  
30 and all prior taxable years attributable to qualified wages  
31 paid or incurred with respect to that qualified  
32 disadvantaged individual.

33 (2) (A) Subparagraph (A) of paragraph (1) does not  
34 apply to any of the following:

35 (i) A termination of employment of a qualified  
36 disadvantaged individual who voluntarily leaves the  
37 employment of the qualified taxpayer.

38 (ii) A termination of employment of a qualified  
39 disadvantaged individual who, before the close of the  
40 period referred to in subparagraph (A) of paragraph (1),



1 becomes disabled to perform the services of that  
2 employment, unless that disability is removed before the  
3 close of that period and the taxpayer fails to offer  
4 reemployment to that individual.

5 (iii) A termination of employment of a qualified  
6 disadvantaged individual, if it is determined that the  
7 termination was due to the misconduct (as defined in  
8 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the  
9 California Code of Regulations) of that individual.

10 (iv) A termination of employment of a qualified  
11 disadvantaged individual due to a substantial reduction in  
12 the trade or business operations of the qualified taxpayer.

13 (v) A termination of employment of a qualified  
14 disadvantaged individual, if that individual is replaced by  
15 other qualified disadvantaged individuals so as to create  
16 a net increase in both the number of employees and the  
17 hours of employment.

18 (B) Subparagraph (B) of paragraph (1) shall not apply  
19 to any of the following:

20 (i) A failure to continue the seasonal employment of  
21 a qualified disadvantaged individual who voluntarily fails  
22 to return to the seasonal employment of the qualified  
23 taxpayer.

24 (ii) A failure to continue the seasonal employment of  
25 a qualified disadvantaged individual who, before the  
26 close of the period referred to in subparagraph (B) of  
27 paragraph (1), becomes disabled and unable to perform  
28 the services of that seasonal employment, unless that  
29 disability is removed before the close of that period and  
30 the qualified taxpayer fails to offer seasonal employment  
31 to that qualified disadvantaged individual.

32 (iii) A failure to continue the seasonal employment of  
33 a qualified disadvantaged individual, if it is determined  
34 that the failure to continue the seasonal employment was  
35 due to the misconduct (as defined in Sections 1256-30 to  
36 1256-43, inclusive, of Title 22 of the California Code of  
37 Regulations) of that qualified disadvantaged individual.

38 (iv) A failure to continue seasonal employment of a  
39 qualified disadvantaged individual due to a substantial



1 reduction in the regular seasonal trade or business  
2 operations of the qualified taxpayer.

3 (v) A failure to continue the seasonal employment of  
4 a qualified disadvantaged individual, if that qualified  
5 disadvantaged individual is replaced by other qualified  
6 disadvantaged individuals so as to create a net increase in  
7 both the number of seasonal employees and the hours of  
8 seasonal employment.

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

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

22 ~~(e)~~

23 (f) In the case of an estate or trust, both of the  
24 following apply:

25 (1) The qualified wages for any taxable year shall be  
26 apportioned between the estate or trust and the  
27 beneficiaries on the basis of the income of the estate or  
28 trust allocable to each.

29 (2) Any beneficiary to whom any qualified wages have  
30 been apportioned under paragraph (1) shall be treated  
31 (for purposes of this part) as the employer with respect  
32 to those wages.

33 ~~(f)~~

34 (g) The credit shall be reduced by the credit allowed  
35 under Section 17053.7. The credit shall also be reduced by  
36 the federal credit allowed under Section 51 of the Internal  
37 Revenue Code.

38 In addition, any deduction otherwise allowed under  
39 this part for the wages or salaries paid or incurred by the  
40 qualified taxpayer upon which the credit is based shall be



1 reduced by the amount of the credit, prior to any  
2 reduction required by subdivision ~~(g)~~ (h) or ~~(h)~~ (i).

3 ~~(g)~~—

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

10 ~~(h)~~—

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

19 (2) Attributable income shall be that portion of the  
20 taxpayer’s California source business income that is  
21 apportioned to the Manufacturing Enhancement Area.  
22 For that purpose, the taxpayer’s business income that is  
23 attributable to sources in this state first shall be  
24 determined in accordance with Chapter 17  
25 (commencing with Section 25101) of Part 11. That  
26 business income shall be further apportioned to the  
27 Manufacturing Enhancement Area in accordance with  
28 Article 2 (commencing with Section 25120) of Chapter 17  
29 of Part 11, modified for purposes of this section in  
30 accordance with paragraph (3).

31 (3) Income shall be apportioned to a Manufacturing  
32 Enhancement Area by multiplying the total California  
33 business income of the taxpayer by a fraction, the  
34 numerator of which is the property factor plus the payroll  
35 factor, and the denominator of which is two. For purposes  
36 of this paragraph:

37 (A) The property factor is a fraction, the numerator of  
38 which is the average value of the taxpayer’s real and  
39 tangible personal property owned or rented and used in  
40 the Manufacturing Enhancement Area during the



1 taxable year, and the denominator of which is the average  
2 value of all the taxpayer's real and tangible personal  
3 property owned or rented and used in this state during  
4 the taxable year.

5 (B) The payroll factor is a fraction, the numerator of  
6 which is the total amount paid by the taxpayer in the  
7 Manufacturing Enhancement Area during the taxable  
8 year for compensation, and the denominator of which is  
9 the total compensation paid by the taxpayer in this state  
10 during the taxable year.

11 (4) The portion of any credit remaining, if any, after  
12 application of this subdivision, shall be carried over to  
13 succeeding taxable years, as if it were an amount  
14 exceeding the "net tax" for the taxable year, as provided  
15 in subdivision ~~(g)~~ (h).

16 ~~(i)~~

17 (j) If the taxpayer is allowed a credit pursuant to this  
18 section for qualified wages paid or incurred, only one  
19 credit shall be allowed to the taxpayer under this part  
20 with respect to any wage consisting in whole or in part of  
21 those qualified wages.

22 SEC. 4. Section 18503 of the Revenue and Taxation  
23 Code is amended and renumbered to read:

24 ~~18503.—~~

25 *18505.6.* If an individual is unable to make a return  
26 *required under Section 18501,* the return *of that*  
27 *individual* shall be made by a duly authorized ~~agent or by~~  
28 ~~the agent,~~ *his or her committee,* guardian, fiduciary,  
29 ~~conservator,~~ or other person charged with the care of the  
30 person or property of the individual. *The preceding*  
31 *sentence shall not apply in the case of a receiver*  
32 *appointed by authority of law in possession of only a part*  
33 *of the property of an individual.*

34 SEC. 5. Section 18504 of the Revenue and Taxation  
35 Code is repealed.

36 ~~18504. Every resident or nonresident who is taxable~~  
37 ~~upon income of an estate or trust shall include that~~  
38 ~~income in his or her gross income.~~

39 SEC. 6. Section 18505 of the Revenue and Taxation  
40 Code is amended to read:



1 18505. ~~(a)~~ Every fiduciary (except a receiver  
2 appointed by authority of law in possession of ~~part~~ only a  
3 *part* of the property of an individual) taxable under Part  
4 10 (commencing with Section 17001) shall make a return,  
5 which shall contain or be verified by a written declaration  
6 that it is made under the penalties of perjury, for any of  
7 the following taxpayers for whom he or she acts, stating  
8 specifically the items of gross income of the taxpayer and  
9 the deductions and credits allowed *for the taxable year*:

10 ~~(1)~~

11 (a) Every individual having an adjusted gross income  
12 ~~for the taxable year from all sources~~ in excess of ~~six~~ *eight*  
13 thousand dollars ~~(\$6,000)~~ (\$8,000), if single.

14 ~~(2)~~

15 (b) Every individual having an adjusted gross income  
16 ~~for the taxable year from all sources~~ in excess of ~~twelve~~  
17 *sixteen* thousand dollars ~~(\$12,000)~~ (\$16,000), if married.

18 ~~(3)~~

19 (c) Every individual having a gross income ~~for the~~  
20 ~~taxable year from all sources~~ in excess of ~~eight~~ *ten*  
21 thousand dollars ~~(\$8,000)~~ (\$10,000), if single, and *twenty*  
22 *thousand dollars* (\$20,000), if married, regardless of the  
23 amount of adjusted gross income.

24 ~~(4)~~

25 (d) Every estate ~~the having~~ net income ~~of which for~~  
26 ~~the taxable year is from all sources~~ in excess of one  
27 thousand dollars (\$1,000).

28 ~~(5)~~

29 (e) Every trust (not treated as a corporation under  
30 Section 23038) ~~the having a~~ net income ~~of which for the~~  
31 ~~taxable year is from all sources~~ in excess of one hundred  
32 dollars (\$100).

33 ~~(6)~~

34 (f) Every estate or trust (not treated as a corporation  
35 under Section 23038) ~~the having a~~ gross income ~~of which~~  
36 ~~for the taxable year is from all sources~~ in excess of ~~eight~~  
37 *ten* thousand dollars ~~(\$8,000)~~ (\$10,000), regardless of the  
38 amount of the net income.

39 ~~(7)~~



1 (g) Every decedent, for the year in which death  
2 occurred, and for prior years, if returns for those years  
3 should have been filed but have not been filed by the  
4 decedent, under the rules and regulations that the  
5 Franchise Tax Board may prescribe.

6 ~~(b) The fiduciary of any estate or trust required to file  
7 a return under subdivision (a), for any taxable year shall,  
8 on or before the date on which that return was required  
9 to be filed, furnish to each beneficiary (or nominee  
10 thereof) a statement in accordance with the provisions of  
11 Section 6034A of the Internal Revenue Code.~~

12 ~~(e) For taxable or income years beginning on or after  
13 January 1, 1998:~~

14 ~~(1) A beneficiary of any estate or trust to which  
15 subdivision (b) applies shall, on that beneficiary's return,  
16 treat any reported item in a manner which is consistent  
17 with the treatment of that item on the applicable entity's  
18 return.~~

19 ~~(2) (A) In the case of any reported item, paragraph  
20 (1) shall not apply to that item if:~~

21 ~~(i) (I) The applicable entity has filed a return but the  
22 beneficiary's treatment on that beneficiary's return is (or  
23 may be) inconsistent with the treatment of the item on  
24 the applicable entity's return, or~~

25 ~~(H) The applicable entity has not filed a return, and~~

26 ~~(ii) The beneficiary files with the Franchise Tax Board  
27 a statement identifying the inconsistency.~~

28 ~~(B) A beneficiary shall be treated as having complied  
29 with clause (ii) of subparagraph (A) with respect to a  
30 reported item if the beneficiary does both of the  
31 following:~~

32 ~~(i) Demonstrates to the satisfaction of the Franchise  
33 Tax Board that the treatment of the reported item on the  
34 beneficiary's return is consistent with the treatment of  
35 the item on the statement furnished under subdivision  
36 (b) to the beneficiary (or nominee thereof) by the  
37 applicable entity.~~

38 ~~(ii) Elects to have this paragraph apply with respect to  
39 that item.~~



1 ~~(3) In any case described in subclause (I) of clause (i)~~  
2 ~~of subparagraph (A) of paragraph (2), in which the~~  
3 ~~beneficiary does not comply with clause (ii) of~~  
4 ~~subparagraph (A) of paragraph (2), any adjustment~~  
5 ~~required to make the treatment of the items by the~~  
6 ~~beneficiary consistent with the treatment of the items on~~  
7 ~~the applicable entity's return shall be treated as arising~~  
8 ~~out of mathematical or clerical errors and assessed and~~  
9 ~~collected under Section 19051.~~

10 (4) For purposes of this subdivision:

11 (A) ~~The term "reported item" means any item for~~  
12 ~~which information is required to be furnished under~~  
13 ~~subdivision (b).~~

14 (B) ~~The term "applicable entity" means the estate or~~  
15 ~~trust of which the taxpayer is the beneficiary.~~

16 (5) ~~The penalties imposed under Article 7~~  
17 ~~(commencing with Section 19131) of Chapter 4 shall~~  
18 ~~apply in the case of a beneficiary's negligence in~~  
19 ~~connection with, or disregard of, the requirements of this~~  
20 ~~subdivision.~~

21 (d) ~~The amendments made by the act adding this~~  
22 ~~subdivision shall apply to returns of beneficiaries and~~  
23 ~~owners filed on or after January 1, 1998.~~

24 SEC. 7. Section 18505.3 is added to the Revenue and  
25 Taxation Code, to read:

26 18505.3. If an individual is deceased, the return of that  
27 individual required under Section 18501 shall be made by  
28 his or her executor, administrator, or other person  
29 charged with property of that decedent.

30 SEC. 8. Section 18507 of the Revenue and Taxation  
31 Code is repealed.

32 ~~18507. If the requirements of Section 18501 do not~~  
33 ~~apply, any individual who is a nonresident for all or any~~  
34 ~~portion of the taxable year shall be required to file a~~  
35 ~~return, regardless of the amount of his or her adjusted~~  
36 ~~gross income, if he or she is required to pay any tax~~  
37 ~~pursuant to Part 10 (commencing with Section 17001).~~

38 SEC. 9. Section 18508 of the Revenue and Taxation  
39 Code is amended to read:



1 18508. (a) *Returns of an estate, a trust, or an estate of*  
2 *an individual under Chapter 7 or Chapter 11 of Title 11*  
3 *of the United States Code shall be made by the fiduciary*  
4 *thereof.*

5 (b) Under the rules and regulations that the Franchise  
6 Tax Board may prescribe, a return ~~filed~~ *made* by one of  
7 two or more joint fiduciaries ~~is~~ *shall be* sufficient. ~~The~~  
8 ~~fiduciary filing the return, which shall contain or be~~  
9 ~~verified by a written declaration that it is made under the~~  
10 ~~penalties of perjury, shall state both of the following:~~

11 ~~(a) That he or she has sufficient knowledge of the~~  
12 ~~affairs of the taxpayer for whom the return is made to~~  
13 ~~enable him or her to make the return.~~

14 ~~(b) That compliance with the requirements of Section~~  
15 ~~18501. A return make pursuant to this subdivision shall~~  
16 ~~contain a statement that the fiduciary has sufficient~~  
17 ~~knowledge of the affairs of the person for whom the~~  
18 ~~return is made to enable him or her to make the return,~~  
19 ~~and that the return is, to the best of his or her knowledge~~  
20 ~~and belief, true and correct.~~

21 SEC. 10. Section 18528 of the Revenue and Taxation  
22 Code is amended to read:

23 18528. (a) For the purposes of Sections 19057 to  
24 19067, inclusive (relating to period of limitations upon  
25 assessment and collection), and for the purposes of  
26 Section 19131 (relating to delinquent returns), a joint  
27 return made under Section 18522 shall be deemed to have  
28 been filed ~~in any of the following circumstances as~~  
29 ~~follows:~~

30 ~~(a)~~

31 (1) Where both spouses filed separate returns prior to  
32 making the joint return, on the date the last separate  
33 return was filed (but not earlier than the last date  
34 prescribed by this part for filing the return of either  
35 spouse).

36 ~~(b)~~

37 (2) Where one spouse filed a separate return prior to  
38 the making of the joint return, and the other spouse had  
39 ~~six~~ *eight* thousand dollars ~~(\$6,000)~~ *(\$8,000)* or less of  
40 adjusted gross income *from all sources* and ~~eight~~ *ten*



1 thousand dollars ~~(\$8,000)~~ (\$10,000) or less of gross  
2 income *from all sources* for the taxable year, on the date  
3 of the filing of the separate return (but not earlier than  
4 the last date prescribed by ~~law~~ *this part* for the filing of  
5 the separate return).

6 ~~(e)~~

7 (3) Where only one spouse filed a separate return  
8 prior to the making of a joint return and the other spouse  
9 had an adjusted gross income *from all sources* in excess of  
10 ~~six~~ *eight* thousand dollars ~~(\$6,000)~~ (\$8,000) or a gross  
11 income *from all sources* in excess of ~~eight~~ *ten* thousand  
12 dollars ~~(\$8,000)~~ (\$10,000) for the taxable year, on the date  
13 of the filing of the joint return.

14 (b) *For purposes of Article 1 of (commencing with*  
15 *Section 19301) of Chapter 6, a joint return made under*  
16 *Section 18522 shall be deemed to have been filed on the*  
17 *later of the last date prescribed by this part for filing the*  
18 *return for the taxable year (determined without regard*  
19 *to any extension of time granted to either spouse) or the*  
20 *date the later timely filed separate return was filed.*

21 SEC. 11. Section 18531.5 is added to the Revenue and  
22 Taxation Code, to read:

23 18531.5. For purposes of Section 443 of the Internal  
24 Revenue Code, where the husband and wife have  
25 different taxable years because of the death of either  
26 spouse, the joint return shall be treated as if the taxable  
27 years of both spouses ended on the date of the closing of  
28 the surviving spouse's taxable year.

29 SEC. 12. Section 18532 of the Revenue and Taxation  
30 Code is amended to read:

31 18532. For the purposes of this ~~article,~~ *the article,*  
32 *each of the following shall apply:*

33 (a) *The status as husband and wife of two individuals*  
34 *having taxable years beginning on the same day shall be*  
35 *determined as follows:*

36 ~~(a)~~

37 (1) *If both have the same taxable year, then as of the*  
38 *close of that year.*

39 ~~(b)~~



1 (2) If one dies before the close of the taxable year of  
2 the other, then as of the time of the death.

3 (b) *An individual who is legally separated from his or*  
4 *her spouse under a decree of divorce or of separate*  
5 *maintenance shall not be considered as married.*

6 (c) *If a joint return is made, the tax shall be computed*  
7 *on the aggregate income and the liability with respect to*  
8 *the tax shall be joint and several.*

9 SEC. 13. Section 18547 of the Revenue and Taxation  
10 Code is amended and renumbered to read:

11 ~~18547.~~

12 18628. (a) Any person required to register a tax  
13 shelter with the Secretary of the Treasury under Section  
14 6111 of the Internal Revenue Code shall, if that tax shelter  
15 is organized in California, be required to send a duplicate  
16 of that registration information to the Franchise Tax  
17 Board not later than the day on which the first offering  
18 for sale of interests in that tax shelter occurs.

19 (b) Any person required to register under Section  
20 6111 of the Internal Revenue Code who receives a tax  
21 registration number from the Secretary of the Treasury  
22 shall, within 30 days after request by the Franchise Tax  
23 Board, file a statement of that registration number.

24 (c) Section 6111(b) of the Internal Revenue Code,  
25 relating to inclusion of tax shelter identification numbers  
26 on returns, shall be applicable.

27 SEC. 14. Section 18552 of the Revenue and Taxation  
28 Code is amended and renumbered to read:

29 ~~18552.~~

30 18408. The Franchise Tax Board is authorized to  
31 require that information with respect to persons subject  
32 to the taxes imposed by ~~Article 4 (commencing with~~  
33 ~~Section 18631)~~ *Article 5 (commencing with Section*  
34 *18661)* of Chapter 2 (relating to tax withheld at source)  
35 as is necessary or helpful in securing proper identification  
36 of those persons.

37 SEC. 15. Section 18631 of the Revenue and Taxation  
38 Code is amended to read:

39 18631. (a) This article does not apply to ~~the~~ *any*  
40 *payment of interest obligations not taxable under Part 10*



1 (commencing with Section 17001) or Part 11  
2 (commencing with Section 23001).

3 (b) Except as otherwise provided, every person  
4 required to file an information return with the Secretary  
5 of the Treasury under any of the federal sections listed in  
6 subdivision (c) may be required to file a copy of the  
7 federal information return with the Franchise Tax Board  
8 at the time and in the manner as it may, by forms and  
9 instructions, require.

10 (c) Subdivision (b) shall apply to each of the following:

11 (1) Section 6034A of the Internal Revenue Code,  
12 relating to information to beneficiaries of estates and  
13 trusts.

14 (2) Section 6039 of the Internal Revenue Code,  
15 relating to information required in connection with  
16 certain options.

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

22 (4) Section 6041 of the Internal Revenue Code,  
23 relating to information at source.

24 (5) Section 6041A of the Internal Revenue Code,  
25 relating to returns regarding payments of remuneration  
26 for services and direct sales, except that no return or  
27 statement shall be required with respect to direct sales  
28 pursuant to Section 6041A(b) of the Internal Revenue  
29 Code.

30 (6) Section 6042 of the Internal Revenue Code,  
31 relating to returns regarding payments of dividends and  
32 corporate earnings and profits.

33 (7) Section 6045 of the Internal Revenue Code,  
34 relating to returns of brokers.

35 (8) Section 6049 of the Internal Revenue Code,  
36 relating to returns regarding payments of interest.

37 (9) Section 6050H of the Internal Revenue Code,  
38 relating to returns of mortgage interest received in trade  
39 or business from individuals.

1 (10) (A) Section 6050I of the Internal Revenue Code,  
2 relating to cash received in trade or business, etc., except  
3 that Section 6050I(g) of the Internal Revenue Code,  
4 relating to cash received by criminal court, shall not  
5 apply.

6 (B) (i) The Attorney General shall, upon court order  
7 following a showing *ex parte* to a magistrate of an  
8 articulable suspicion that an individual or entity has  
9 committed a felony offense to which a federal  
10 information return is related, be provided a copy of a  
11 federal information return filed with the Franchise Tax  
12 Board under this paragraph. The Attorney General may  
13 make a return or information therefrom available to a  
14 district attorney subject to regulations promulgated by  
15 the Attorney General. The regulations shall require the  
16 district attorney seeking the return or information to  
17 specify in writing the specific reasons for believing that  
18 a felony offense has been committed to which the return  
19 or information is related.

20 (ii) Any information or return obtained by the  
21 Attorney General or a district attorney pursuant to this  
22 subparagraph shall be confidential and used only for  
23 investigative or prosecutorial purposes.

24 (11) Section 6050J of the Internal Revenue Code,  
25 relating to returns of foreclosures and abandonments of  
26 security.

27 (12) (A) Section 6050K of the Internal Revenue Code,  
28 relating to returns of exchanges of certain partnership  
29 interests.

30 (B) In addition to the general requirement under  
31 subparagraph (A), a transferor of a partnership interest  
32 shall be required to notify the partnership of that  
33 exchange in accordance with Section 6050K(c) of the  
34 Internal Revenue Code.

35 (13) Section 6050L of the Internal Revenue Code,  
36 relating to returns of certain dispositions of donated  
37 property.

38 (14) Section 6050N of the Internal Revenue Code,  
39 relating to returns regarding payments of royalties.



1 (15) Section 6050P of the Internal Revenue Code,  
2 relating to returns of cancellation of indebtedness by  
3 certain entities.

4 (16) Section 6050Q of the Internal Revenue Code,  
5 relating to certain long-term care benefits.

6 (17) Section 6050R of the Internal Revenue Code,  
7 relating to returns of certain purchases of fish.

8 (18) Section 6050S of the Internal Revenue Code,  
9 relating to higher education tuition and related expenses.

10 (19) Section 6052 of the internal Revenue Code,  
11 relating to returns regarding payment of wages in the  
12 form of group-term life insurance.

13 (d) Every person required to make a return under  
14 subdivision (b) shall also furnish a statement to each  
15 person whose name is required to be set forth in the  
16 return, as required to do so by the Internal Revenue  
17 Code.

18 SEC. 16. Section 18633 of the Revenue and Taxation  
19 Code is amended to read:

20 18633. (a) (1) Every partnership, on or before the  
21 fifteenth day of the fourth month following the close of its  
22 taxable year, shall make a return for that taxable year,  
23 stating specifically the items of gross income and the  
24 deductions allowed by Part 10 (commencing with Section  
25 17001). Except as otherwise provided in Section 18621.5,  
26 the return shall include the names, addresses, and  
27 taxpayer identification numbers of the persons, whether  
28 residents or nonresidents, who would be entitled to share  
29 in the net income if distributed and the amount of the  
30 distributive share of each person. The return shall contain  
31 or be verified by a written declaration that it is made  
32 under the penalties of perjury, signed by one of the  
33 partners.

34 (2) In addition to returns required by paragraph (1),  
35 every limited partnership subject to the tax imposed by  
36 subdivision (b) of Section 17935-~~or 23081~~, on or before the  
37 fifteenth day of the fourth month following the close of its  
38 taxable year, shall make a return for that taxable year,  
39 containing the information identified in paragraph (1).  
40 In the case of a limited partnership not doing business in



1 this state, the Franchise Tax Board shall prescribe the  
2 manner and extent to which the information identified in  
3 paragraph (1) shall be included with the return required  
4 by this paragraph.

5 (b) Each partnership required to file a return under  
6 subdivision (a) for any taxable year shall (on or before the  
7 day on which the return for that taxable year was  
8 required to be filed) furnish to each person who is a  
9 partner or who holds an interest in that partnership as a  
10 nominee for another person at any time during that  
11 taxable year a copy of ~~that~~ *the* information required to be  
12 shown on that return as may be required by regulations.

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

16 (1) Furnish to the partnership, in the manner  
17 prescribed by the Franchise Tax Board, the name,  
18 address, and taxpayer identification number of that other  
19 person, and any other information for that taxable year as  
20 the Franchise Tax Board may by form and regulation  
21 prescribe.

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

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

28 ~~(e) The amendments made to this section by the act  
29 adding this subdivision shall apply to returns required to  
30 be filed under subdivision (a) after the effective date of  
31 that act.~~

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

35 SEC. 17. Section 18633.5 of the Revenue and Taxation  
36 Code is amended to read:

37 18633.5. (a) Every limited liability company which is  
38 classified as a partnership for California tax purposes that  
39 is doing business in this state, organized in this state, or  
40 registered with the Secretary of State shall file its return



1 on or before the fifteenth day of the fourth month  
2 following the close of its taxable year, shall make a return  
3 for that taxable year, stating specifically the items of gross  
4 income and the deductions allowed by Part 10  
5 (commencing with Section 17001). The return shall  
6 include the names, addresses, and taxpayer identification  
7 numbers of the persons, whether residents or  
8 nonresidents, who would be entitled to share in the net  
9 income if distributed and the amount of the distributive  
10 share of each person. The return shall contain or be  
11 verified by a written declaration that it is made under the  
12 penalties of perjury, signed by one of the limited liability  
13 company members. In the case of a limited liability  
14 company not doing business in this state, and subject to  
15 the tax imposed by subdivision (b) of Section 17941—~~or~~  
16 ~~23094~~, the Franchise Tax Board shall, for returns required  
17 to be filed on or after January 1, 1998, prescribe the  
18 manner and extent to which the information identified in  
19 this subdivision shall be included with the return  
20 required by this subdivision.

21 (b) Each limited liability company required to file a  
22 return under subdivision (a) for any limited liability  
23 company taxable or income year shall, on or before the  
24 day on which the return for that taxable or income year  
25 was required to be filed, furnish to each person who holds  
26 an interest in that limited liability company at any time  
27 during that taxable or income year a copy of that  
28 information required to be shown on that return as may  
29 be required by forms and instructions prescribed by the  
30 Franchise Tax Board.

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

34 (1) Furnish to the limited liability company, in the  
35 manner prescribed by the Franchise Tax Board, the  
36 name, address, and taxpayer identification number of  
37 that person, and any other information for that taxable or  
38 income year as the Franchise Tax Board may prescribe by  
39 forms and instructions.



1 (2) Furnish to that other person, in the manner  
2 prescribed by the Franchise Tax Board, the information  
3 provided by that limited liability company under  
4 subdivision (b).

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

8 (e) (1) A limited liability company shall file with its  
9 return required under subdivision (a), in the form  
10 required by the Franchise Tax Board, the agreement of  
11 each nonresident member to file a return pursuant to  
12 Section 18501, to make timely payment of all taxes  
13 imposed on the member by this state with respect to the  
14 income of the limited liability company, and to be subject  
15 to personal jurisdiction in this state for purposes of the  
16 collection of income taxes, together with related interest  
17 and penalties, imposed on the member by this state with  
18 respect to the income of the limited liability company. If  
19 the limited liability company fails to timely file the  
20 agreements on behalf of each of its nonresident members,  
21 then the limited liability company shall, at the time set  
22 forth in subdivision (f), pay to this state on behalf of each  
23 nonresident member of whom an agreement has not  
24 been timely filed an amount equal to the highest marginal  
25 tax rate in effect under Section 17041, in the case of  
26 members which are individuals, estates, or trusts, and  
27 Section 23151, in the case of members which are  
28 corporations, multiplied by the amount of the member's  
29 distributive share of the income source to the state  
30 reflected on the limited liability company's return for the  
31 taxable period. A limited liability company shall be  
32 entitled to recover the payment made from the member  
33 on whose behalf the payment was made.

34 (2) If a limited liability company fails to attach the  
35 agreement or to timely pay the payment required by  
36 paragraph (1), the payment shall be considered the tax  
37 of the limited liability company for purposes of the  
38 penalty prescribed by Section 19132 and interest  
39 prescribed by Section 19101 for failure to timely pay the  
40 tax. Payment of the penalty and interest imposed on the



1 limited liability company for failure to timely pay the  
2 amount required by this subdivision shall extinguish the  
3 liability of a nonresident member for the penalty and  
4 interest for failure to make timely payment of all taxes  
5 imposed on that member by this state with respect to the  
6 income of the limited liability company.

7 (3) No penalty or interest shall be imposed on the  
8 limited liability company under paragraph (2) if the  
9 nonresident member timely files and pays all taxes  
10 imposed on the member by this state with respect to the  
11 income of the limited liability company.

12 (f) Any agreement of a nonresident member required  
13 to be filed pursuant to subdivision (e) shall be filed at  
14 either of the following times:

15 (1) The time the annual return is required to be filed  
16 pursuant to this section for the first taxable period for  
17 which the limited liability company became subject to tax  
18 pursuant to Chapter 10.6 (commencing with Section  
19 17941) ~~or Chapter 1.6 (commencing with Section 23091).~~

20 (2) The time the annual return is required to be filed  
21 pursuant to this section for any taxable period in which  
22 the limited liability company had a nonresident member  
23 on whose behalf an agreement described in subdivision  
24 (e) has not been previously filed.

25 (g) Any amount paid by the limited liability company  
26 to this state pursuant to paragraph (1) of subdivision (e)  
27 shall be considered to be a payment by the member on  
28 account of the income tax imposed by this state on the  
29 member for the taxable period.

30 (h) Every limited liability company that is classified as  
31 a corporation for California tax purposes shall be subject  
32 to the requirement to file a tax return under the  
33 provisions of Part 10.2 (commencing with Section 18401)  
34 and the applicable taxes imposed by Part 11  
35 (commencing with Section 23001) including Section  
36 23221 relating to the prepayment of the minimum tax to  
37 the Secretary of State.

38 (i) (1) Every limited liability company doing business  
39 in this state, organized in this state, or registered with the  
40 Secretary of State, that is disregarded pursuant to Section



1 23038 shall file a return that includes information  
2 necessary to verify its liability under Sections 17941 and  
3 17942, provides its sole owner's name and taxpayer  
4 identification number, includes the consent of the owner  
5 to California tax jurisdiction, and includes other  
6 information necessary for the administration of this part,  
7 Part 10 (commencing with Section 17001), or Part 11  
8 (commencing with Section 23001).

9 (2) If the owner's consent required under paragraph  
10 (1) is not included, the limited liability company shall pay  
11 on behalf of its owner an amount consistent with, and  
12 treated the same as, the amount to be paid under  
13 subdivision (e) by a limited liability company on behalf  
14 of a nonresident member for whom an agreement  
15 required by subdivision (e) is not attached to the return  
16 of the limited liability company.

17 (3) The return required under paragraph (1) shall be  
18 filed on or before the fifteenth day of the fourth month  
19 after the close of the taxable year of the owner or on or  
20 before the fifteenth day of the third month after the close  
21 of the income year of the owner, whichever is applicable.

22 (4) For limited liability companies disregarded  
23 pursuant to Section 23038, "taxable or income year of the  
24 owner" shall be substituted for "taxable year" in Sections  
25 17941 and 17942.

26 SEC. 18. Section 18635.5 is added to the Revenue and  
27 Taxation Code, to read:

28 18635.5. (a) Section 6034A of the Internal Revenue  
29 Code, relating to information to beneficiaries of estates  
30 and trusts, shall apply, except as otherwise provided.

31 (b) Section 6034A(a) is modified to refer to Section  
32 18505 in lieu of Section 6012(a) of the Internal Revenue  
33 Code.

34 (c) Section 6034A(c)(3) is modified to refer to Section  
35 19051 in lieu of Section 6213(b)(1) of the Internal  
36 Revenue Code.

37 (d) Section 6034A(c)(5) is modified to refer to Article  
38 7 of Chapter 4 of this part in lieu of part II of Subchapter  
39 A of Chapter 69 of the Internal Revenue Code.



1 SEC. 19. Section 18636 of the Revenue and Taxation  
2 Code is repealed.

3 ~~18636. Section 6039 of the Internal Revenue Code,~~  
4 ~~relating to information required in connection with~~  
5 ~~certain options, shall apply.~~

6 SEC. 20. Section 18637 of the Revenue and Taxation  
7 Code is repealed.

8 ~~18637. (a) Every individual, partnership, limited~~  
9 ~~liability company, corporation, joint stock company or~~  
10 ~~association, insurance company, business trust, or~~  
11 ~~so-called Massachusetts trust, engaged in a trade or~~  
12 ~~business in this state and making payment in the course~~  
13 ~~of the trade or business to another person, including~~  
14 ~~lessees or mortgagors of real or personal property,~~  
15 ~~fiduciaries, employers, and all officers and employees of~~  
16 ~~this state or any political subdivision of this state, or any~~  
17 ~~city organized under a freeholder's charter, or any~~  
18 ~~political body not a subdivision or agency of the state,~~  
19 ~~having the control, receipt, custody, disposal, or payment~~  
20 ~~of interest (other than interest coupons payable to~~  
21 ~~bearer), dividends, rents, salaries, wages, premiums,~~  
22 ~~annuities, compensations, remunerations, emoluments,~~  
23 ~~or other fixed or determinable annual or periodical gains,~~  
24 ~~profits, and income amounting to six hundred dollars~~  
25 ~~(\$600) or over, paid or payable during any year to any~~  
26 ~~taxpayer, shall make a complete return to the Franchise~~  
27 ~~Tax Board, which shall contain or be verified by a written~~  
28 ~~declaration that it is made under the penalties of perjury,~~  
29 ~~under the regulations and in the form and manner and to~~  
30 ~~the extent as may be prescribed by it.~~

31 ~~(b) For purposes of subdivision (a), "trade or~~  
32 ~~business" includes the activities of nonprofit~~  
33 ~~organizations.~~

34 ~~(c) In lieu of an information return required by~~  
35 ~~subdivision (a), the Franchise Tax Board may require~~  
36 ~~that a copy of the federal information return be filed with~~  
37 ~~the Franchise Tax Board.~~

38 ~~(d) Every entity required to make a return under~~  
39 ~~subdivision (a) shall furnish to each person whose name~~



1 is required to be set forth in the return a written  
2 statement showing both of the following:

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

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

7 The written statement required under this subdivision  
8 shall be furnished to the person on or before January 31  
9 of the year following the calendar year for which the  
10 return under subdivision (a) was required to be made.

11 (e) This section shall not apply to tips with respect to  
12 which Section 13055 of the Unemployment Insurance  
13 Code applies. The only records which an employer shall  
14 be required to keep under this section in connection with  
15 charged tips shall be charge receipts and copies of  
16 statements furnished by employees under Section 13055  
17 of the Unemployment Insurance Code.

18 SEC. 21. Section 18638 of the Revenue and Taxation  
19 Code is repealed.

20 18638. Every individual, partnership, limited liability  
21 company, corporation, joint stock company or  
22 association, insurance company, business trust, or  
23 so-called Massachusetts trust, shall be required to file a  
24 return for certain payments of remuneration for services  
25 and furnish a written statement to the person whose  
26 name is required to be set forth on the return in  
27 accordance with the provisions of Section 6041A of the  
28 Internal Revenue Code, except that no return or  
29 statement shall be required if a statement with respect to  
30 the services is required to be furnished under Division 6  
31 (commencing with Section 13000) of the Unemployment  
32 Insurance Code (relating to withholding tax on wages) or  
33 Section 18647, and no return or statement shall be  
34 required with respect to direct sales pursuant to Section  
35 6041A(b) of the Internal Revenue Code.

36 SEC. 22. Section 18639 of the Revenue and Taxation  
37 Code is amended to read:

38 18639. (a) Any person required to file an information  
39 return with the Internal Revenue Service under Section  
40 6049 of the Internal Revenue Code (relating to payment



1 of interest) or Section 6042 of the Internal Revenue Code  
2 (relating to payment of dividends) shall be required to  
3 report that information to the Franchise Tax Board.

4 (b)(1) In addition to those reports required under  
5 subdivision (a) paragraph (8) of subdivision (c) of  
6 Section 18631, information returns shall be required, at  
7 the time and in the form and manner and to the extent  
8 that the Franchise Tax Board may prescribe, from both  
9 of the following:

10 (A) Every person who makes payments of  
11 exempt-interest dividends, as described in Section  
12 852(b)(5) of the Internal Revenue Code, that are not  
13 exempt-interest dividends, as described in Section 17145  
14 of the Revenue and Taxation Code, aggregating ten  
15 dollars (\$10) or more to any person, other than to any  
16 person described in paragraph (2), during any calendar  
17 year.

18 (B) Every person who receives payments of interest as  
19 a nominee and who makes payments aggregating ten  
20 dollars (\$10) or more during any calendar year to any  
21 other person, other than to any person described in  
22 paragraph (2), with respect to the interest so received.  
23 For purposes of this paragraph, “interest” is limited to  
24 interest on any obligation if the interest is exempt from  
25 tax under Section 103(a) of the Internal Revenue Code  
26 or if the interest is exempt from tax, without regard to the  
27 identity of the holder, under any other provision of Title  
28 26 of the United States Code, but which is not exempt  
29 from income tax under Part 10 (commencing with  
30 Section 17001).

31 (2) For purposes of this subdivision, a person shall not  
32 be required to make a report pursuant to paragraph (1)  
33 if the person receiving the payment is any of the  
34 following:

35 (A) A corporation.

36 (B) An organization exempt from taxation under  
37 Section 23701 or an individual retirement plan.

38 (C) The United States or any wholly owned agency or  
39 instrumentality thereof.



1 (D) A state, the District of Columbia, a possession of  
2 the United States, any political subdivision of any of the  
3 foregoing, or any wholly owned agency or  
4 instrumentality of any one or more of the foregoing.

5 (E) A foreign government, a political subdivision of a  
6 foreign government, or any wholly owned agency or  
7 instrumentality of any one or more of the foregoing.

8 (F) An international organization or any wholly  
9 owned agency or instrumentality thereof.

10 (G) A foreign central bank of issue.

11 (H) A dealer in securities or commodities required to  
12 register under the laws of the United States or a state, the  
13 District of Columbia, or possession of the United States.

14 (I) A real estate investment trust, as defined in Section  
15 856 of the Internal Revenue Code.

16 (J) An investment company, as defined in Section  
17 80a-3 of the United States Code, registered at all times  
18 during the taxable year under the Investment Company  
19 Act of 1940.

20 (K) A common trust fund, as defined in Section 17671.

21 (L) Any trust that is exempt from tax under Section  
22 664(c) of Title 15 of the Internal Revenue Code.

23 ~~(e)~~

24 (b) Every person required to make a return under this  
25 section shall also furnish a statement to each person  
26 whose name is set forth in the return, as required to do so  
27 by the Internal Revenue Code.

28 SEC. 23. Section 18641 of the Revenue and Taxation  
29 Code is repealed.

30 ~~18641. (a) Every person doing business as a broker~~  
31 ~~shall, when required by the Franchise Tax Board, make~~  
32 ~~a return, in accordance with regulations as the Franchise~~  
33 ~~Tax Board may prescribe, showing the name and address~~  
34 ~~of each customer, with details regarding gross proceeds~~  
35 ~~and any other information which the Franchise Tax~~  
36 ~~Board may by forms or regulations require with respect~~  
37 ~~to that business.~~

38 ~~(b) (1) Every person required to make a return~~  
39 ~~under subdivision (a) shall furnish to each customer~~



1 ~~whose name is required to be set forth in that return a~~  
2 ~~written statement showing all of the following:~~

3 ~~(A) The name and address of the person required to~~  
4 ~~make that return.~~

5 ~~(B) The information required to be shown on that~~  
6 ~~return with respect to that customer.~~

7 ~~(2) The written statement required under paragraph~~  
8 ~~(1) shall be furnished to the customer on or before~~  
9 ~~January 31 of the year following the calendar year for~~  
10 ~~which the return under subdivision (a) was required to~~  
11 ~~be made.~~

12 ~~(e) For purposes of this section:~~

13 ~~(1) "Broker" includes any of the following:~~

14 ~~(A) A dealer.~~

15 ~~(B) A barter exchange.~~

16 ~~(C) Any other person, who, for a consideration,~~  
17 ~~regularly acts as a middleman with respect to personal~~  
18 ~~property or services. A person shall not be treated as a~~  
19 ~~broker with respect to activities consisting of managing~~  
20 ~~a farm on behalf of another person.~~

21 ~~(2) "Customer" means any person for whom the~~  
22 ~~broker has transacted any business.~~

23 ~~(3) "Barter exchange" means any organization of~~  
24 ~~members providing personal property or services who~~  
25 ~~jointly contract to trade or barter that personal property~~  
26 ~~or services.~~

27 ~~(4) "Person" includes any governmental unit and any~~  
28 ~~agency or instrumentality thereof.~~

29 ~~(d) (1) Any person engaged in a trade or business and~~  
30 ~~making a payment (in the course of that trade or~~  
31 ~~business) to which this subdivision applies shall file a~~  
32 ~~return under subdivision (a) and a statement under~~  
33 ~~subdivision (b) with respect to that payment.~~

34 ~~(2) (A) This subdivision shall apply to any payment to~~  
35 ~~an attorney in connection with legal services (whether or~~  
36 ~~not those services are performed for the payer).~~

37 ~~(B) This subdivision shall not apply to the portion of~~  
38 ~~any payment which is required to be reported under~~  
39 ~~subdivision (a) of Section 18637 (or would be so required~~  
40 ~~but for the dollar limitation contained therein).~~



1 ~~(e) (1) Any regulations which apply to payments~~  
2 ~~subject to the reporting requirements imposed under~~  
3 ~~Section 18637 that provide an exception for payments~~  
4 ~~made to corporations shall not apply to payments of~~  
5 ~~attorneys' fees.~~

6 ~~(2) The regulations under Section 6041 of the Internal~~  
7 ~~Revenue Code, relating to providing an exception for~~  
8 ~~payments made to corporations, shall not be used to~~  
9 ~~interpret the requirements under Section 18637 with~~  
10 ~~respect to payments of attorneys' fees.~~

11 ~~(f) If the taxpayer has complied with the requirements~~  
12 ~~of Section 6045(f) of the Internal Revenue Code for~~  
13 ~~federal purposes, the taxpayer shall be deemed to have~~  
14 ~~complied with the requirements of subdivision (d) for~~  
15 ~~purposes of this part and no penalty shall be imposed~~  
16 ~~under Section 19183.~~

17 ~~(g) The amendments made by the act adding this~~  
18 ~~subdivision shall apply to payments made after~~  
19 ~~December 31, 1997.~~

20 ~~(h) In lieu of the return required by subdivision (a),~~  
21 ~~a copy of the similar return filed with the Internal~~  
22 ~~Revenue Service pursuant to Section 6045 of the Internal~~  
23 ~~Revenue Code, and the regulations adopted thereto, may~~  
24 ~~be filed with the Franchise Tax Board.~~

25 SEC. 24. Section 18643 of the Revenue and Taxation  
26 Code is repealed.

27 18643. ~~(a) (1) If the transaction involves real~~  
28 ~~property in California, any person required to file a~~  
29 ~~return with the Secretary of the Treasury under Section~~  
30 ~~6045 (e) of the Internal Revenue Code shall send a copy~~  
31 ~~of that return to the Franchise Tax Board at the time~~  
32 ~~prescribed for filing the return with the Secretary of the~~  
33 ~~Treasury.~~

34 ~~(2) For transactions involving California real property~~  
35 ~~which close during the calendar year 1988 but are~~  
36 ~~reported to the Secretary of the Treasury on a return filed~~  
37 ~~after January 1, 1989, the person required to file the~~  
38 ~~return shall file a copy with the Franchise Tax Board at~~  
39 ~~the time prescribed for filing with the Secretary of the~~  
40 ~~Treasury.~~



1 ~~(b) The penalties provided under Section 19183 shall~~  
2 ~~apply for failure to comply with subdivision (a).~~

3 ~~(c) No later than January 1, 1994, the Franchise Tax~~  
4 ~~Board shall submit a report to the Legislature including~~  
5 ~~a cost benefit analysis, which evaluates the effectiveness~~  
6 ~~of programs established by the Franchise Tax Board in~~  
7 ~~implementing this section.~~

8 SEC. 25. Section 18645 of the Revenue and Taxation  
9 Code is repealed.

10 ~~18645. (a) The Franchise Tax Board may require a~~  
11 ~~copy of the federal information return to be filed with the~~  
12 ~~Franchise Tax Board if a federal information return was~~  
13 ~~required under any of the following:~~

14 ~~(1) Section 6039C of the Internal Revenue Code,~~  
15 ~~relating to returns with respect to foreign persons holding~~  
16 ~~direct investments in United States real property~~  
17 ~~interests, if that person holds a direct investment in a~~  
18 ~~California real property interest as defined in Section~~  
19 ~~18662.~~

20 ~~(2) Section 6050H of the Internal Revenue Code,~~  
21 ~~relating to mortgage interest received in trade or~~  
22 ~~business from individuals.~~

23 ~~(3) Section 6050J of the Internal Revenue Code,~~  
24 ~~relating to foreclosures and abandonments of security.~~

25 ~~(4) Section 6050K of the Internal Revenue Code,~~  
26 ~~relating to exchanges of certain partnership interests.~~

27 ~~(5) Section 6050L of the Internal Revenue Code,~~  
28 ~~relating to certain dispositions of donated property.~~

29 ~~(6) Section 6050N of the Internal Revenue Code,~~  
30 ~~relating to returns regarding payments of royalties.~~

31 ~~(7) Section 6050P of the Internal Revenue Code,~~  
32 ~~relating to returns relating to the cancellation of~~  
33 ~~indebtedness by certain financial entities.~~

34 ~~(8) Section 6050Q of the Internal Revenue Code,~~  
35 ~~relating to certain long-term care benefits.~~

36 ~~(9) Section 6050R of the Internal Revenue Code,~~  
37 ~~relating to returns relating to certain purchases of fish.~~

38 ~~(10) Section 6050S of the Internal Revenue Code,~~  
39 ~~relating to returns relating to higher education tuition~~  
40 ~~and related expenses.~~



1 ~~(b) Every person required to make a return under~~  
2 ~~subdivision (a) shall also furnish a statement to each~~  
3 ~~person whose name is required to be set forth in the~~  
4 ~~return, as required to do so by the Internal Revenue~~  
5 ~~Code.~~

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

10 ~~(d) The Franchise Tax Board shall require a copy of~~  
11 ~~the federal information return to be filed with the~~  
12 ~~Franchise Tax Board if a federal information return was~~  
13 ~~required under Section 6050I(a) of the Internal Revenue~~  
14 ~~Code, relating to cash received in trade or business.~~  
15 ~~Section 6050I(g) of the Internal Revenue Code, relating~~  
16 ~~to cash received by criminal court clerks, shall not apply.~~

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

31 ~~(2) Any information or return obtained by the~~  
32 ~~Attorney General or a district attorney pursuant to this~~  
33 ~~section shall be confidential and used only for~~  
34 ~~investigative or prosecutorial purposes.~~

35 ~~SEC. 26. Section 18647 of the Revenue and Taxation~~  
36 ~~Code is repealed.~~

37 ~~18647. (a) Every employer who during any calendar~~  
38 ~~year provides group term life insurance on the life of an~~  
39 ~~employee during part or all of the calendar year under a~~  
40 ~~policy (or policies) carried directly or indirectly by the~~



1 employer shall make a return according to the forms or  
2 regulations prescribed by the Franchise Tax Board,  
3 setting forth the cost of the insurance and the name and  
4 address of the employee on whose life the insurance is  
5 provided, but only to the extent that the cost of the  
6 insurance is includable in the employee's gross income  
7 under Section 79(a) of the Internal Revenue Code. For  
8 purposes of this section, the extent to which the cost of  
9 group term life insurance is includable in the employee's  
10 gross income under Section 79(a) of the Internal  
11 Revenue Code shall be determined as if the employer  
12 were the only employer paying the employee  
13 remuneration in the form of that insurance.

14 (b) Every employer required to make a return under  
15 subdivision (a) shall furnish to each employee whose  
16 name is required to be set forth in the return a written  
17 statement showing the cost of the group-term life  
18 insurance shown on the return. The written statement  
19 required under the preceding sentence shall be furnished  
20 to the employee on or before January 31 of the year  
21 following the calendar year for which the return under  
22 subdivision (a) was required to be made.

23 SEC. 27. Section 19101 of the Revenue and Taxation  
24 Code is amended to read:

25 19101. (a) *If the any amount of tax imposed by Part*  
26 *10 (commencing with Section 17001) or Part 11*  
27 *(commencing with Section 23001), whether assessed by*  
28 *the Franchise Tax Board or the taxpayer, or any portion*  
29 *of the tax is not paid on or before the last date prescribed*  
30 *for its payment, interest shall be assessed, collected, and*  
31 *paid in the same manner as the tax upon the unpaid*  
32 *amount on that amount at the adjusted annual rate*  
33 *established pursuant to under Section 19521 shall be paid*  
34 *for the period from the that last date prescribed for its*  
35 *payment until it is to the date paid.*

36 (b) *For purposes of this article, the last date prescribed*  
37 *for payment of the tax shall be determined under*  
38 *Chapter 4 (commencing with Section 19001), with the*  
39 *application of the following rules:*



1 (1) The last date prescribed for payment shall be  
2 determined without regard to any extension of time for  
3 payment or any installment agreement entered into  
4 under Section 19008.

5 (2) The last date prescribed for payment shall be  
6 determined without regard to any notice and demand for  
7 payment issued, by reason of jeopardy as provided in  
8 Article 5 (commencing with Section 19081), prior to the  
9 last date otherwise prescribed for that payment.

10 (3) In all other cases in which the last date for payment  
11 is not otherwise prescribed, the last date for payment  
12 shall be deemed to be the date the liability for tax arises  
13 (and in no event shall be later than the date notice and  
14 demand for the tax is made by the Franchise Tax Board).

15 (c) Except as provided in this article:

16 (1) Interest prescribed under this article on any tax  
17 shall be paid upon notice and demand, and shall be  
18 assessed, collected, and paid in the same manner as taxes.  
19 Any reference in Part 10 (commencing with Section  
20 17001), Part 11 (commencing with Section 23001), or this  
21 part (except Article 3 (commencing with Section 19031),  
22 relating to deficiency assessments) to any tax imposed by  
23 Part 10 (commencing with Section 17001) or Part 11  
24 (commencing with Section 23001) shall be deemed also  
25 to refer to interest imposed by this article on that tax.

26 (2) (A) Interest shall be imposed under subdivision  
27 (a) in respect to any assessable penalty, additional  
28 amount, or addition to the tax (other than an addition to  
29 tax imposed under Section 19131, 19132, or 19164) only if  
30 that assessable penalty, additional amount, or addition to  
31 the tax is not paid within 15 calendar days from the date  
32 of notice and demand therefor, and in that case interest  
33 shall be imposed only for the period from the date of the  
34 notice and demand to the date of payment.

35 (B) Interest shall be imposed under this article with  
36 respect to any addition to tax imposed by Section 19131  
37 (relating to failure to file a return on or before the due  
38 date), Section 19132 (relating to underpayment of tax),  
39 or Section 19164 (relating to imposition of the  
40 accuracy-related penalty), for the period that:



1 (i) Begins on the date on which the return of the tax  
2 with respect to which that addition to tax is imposed is  
3 required to be filed (including any extensions), and

4 (ii) Ends on the date of payment of that addition to tax.

5 (3) If notice and demand is made for payment of any  
6 amount and if that amount is paid within 15 calendar days  
7 after the date of the notice and demand, interest under  
8 this article on the amount so paid shall not be imposed for  
9 the period after the date of the notice and demand.

10 (d) This article shall not apply to any failure to pay  
11 estimated tax required by Section 19025 or 19136.

12 SEC. 28. Section 19102 of the Revenue and Taxation  
13 Code is repealed.

14 ~~19102. If the time for the payment of the tax or any~~  
15 ~~installment agreement entered into under Section 19008~~  
16 ~~is extended, interest thereon shall be assessed, collected,~~  
17 ~~and paid in the same manner as the tax at the adjusted~~  
18 ~~annual rate established pursuant to Section 19521 from~~  
19 ~~the date upon which the payment should have been made~~  
20 ~~if no extension had been granted until the date the tax is~~  
21 ~~paid.~~

22 SEC. 29. Section 19103 of the Revenue and Taxation  
23 Code is repealed.

24 ~~19103. The last date prescribed for payment by~~  
25 ~~Section 19102 shall be determined without regard to any~~  
26 ~~notice and demand for payment issued, by reason of~~  
27 ~~jeopardy (as provided in Article 5 (commencing with~~  
28 ~~Section 19081) of this chapter), prior to the last date~~  
29 ~~otherwise prescribed for the payment.~~

30 SEC. 30. Section 19104 of the Revenue and Taxation  
31 Code is amended and renumbered to read:

32 ~~19104.—~~

33 ~~19368. (a) Interest upon the amount assessed as a~~  
34 ~~deficiency shall be assessed, collected, and paid in the~~  
35 ~~same manner as the tax at the adjusted annual rate~~  
36 ~~established pursuant to Section 19521 from the date~~  
37 ~~prescribed for the payment of the tax or, if the tax is paid~~  
38 ~~in installments, from the date prescribed for payment of~~  
39 ~~the first installment, until the date the tax is paid. If any~~  
40 ~~portion of the deficiency is paid prior to the date it is~~



1 ~~assessed, interest shall accrue on that portion only to the~~  
2 ~~date paid.~~

3 (b) If the Franchise Tax Board makes or allows a  
4 refund or credit that it determines to be erroneous, in  
5 whole or in part, the amount erroneously made or  
6 allowed may be assessed and collected after notice and  
7 demand pursuant to Section 19051 (pertaining to  
8 mathematical errors), except that the rights of protest  
9 and appeal shall apply with respect to amounts assessable  
10 as deficiencies without regard to the running of any  
11 period of limitations provided elsewhere in this part.  
12 Notice and demand for repayment must be made within  
13 two years after the refund or credit was made or allowed,  
14 or during the period within which the Franchise Tax  
15 Board may mail a notice of proposed deficiency  
16 assessment, whichever period expires the later. Interest  
17 on amounts erroneously made or allowed shall not accrue  
18 until 30 days from the date the Franchise Tax Board mails  
19 a notice and demand for repayment as provided by this  
20 subdivision.

21 ~~(e)~~

22 (b) (1) In the case of any assessment of interest, the  
23 Franchise Tax Board may abate the assessment of all or  
24 any part of that interest for any period in any of the  
25 following circumstances:

26 (A) Any deficiency attributable in whole or in part to  
27 any unreasonable error or delay by an officer or employee  
28 of the Franchise Tax Board (acting in his or her official  
29 capacity) in performing a ministerial or managerial act.

30 (B) Any payment of any tax described in Section 19033  
31 to the extent that any delay in that payment is  
32 attributable to that officer or employee being dilatory in  
33 performing a ministerial or managerial act.

34 (C) Any interest accruing from a deficiency based on  
35 a final federal determination of tax, for the same period  
36 that interest was abated on the related federal deficiency  
37 amount under Section 6404(e) of the Internal Revenue  
38 Code, and the error or delay occurred on or before the  
39 issuance of the final federal determination. This  
40 subparagraph shall apply to any ministerial act for which



1 the interest accrued after September 25, 1987, or for any  
2 managerial act applicable to a taxable or income year  
3 beginning on or after January 1, 1998, for which the  
4 Franchise Tax Board may propose an assessment or allow  
5 a claim for refund.

6 (D) For purposes of this paragraph:

7 (i) Except as provided in subparagraph (C), an error  
8 or delay shall be taken into account only if no significant  
9 aspect of that error or delay can be attributed to the  
10 taxpayer involved and after the Franchise Tax Board has  
11 contacted the taxpayer in writing with respect to that  
12 deficiency or payment.

13 (ii) Within 180 days after the Franchise Tax Board  
14 mails its notice of determination not to abate interest, a  
15 taxpayer may appeal the Franchise Tax Board's  
16 determination to the State Board of Equalization. The  
17 State Board of Equalization shall have jurisdiction over  
18 the appeal to determine whether the Franchise Tax  
19 Board's failure to abate interest under this section was an  
20 abuse of discretion, and may order an abatement.

21 (iii) Except for the amendment adding clause (ii), the  
22 amendments made by the act adding this clause are  
23 operative with respect to taxable or income years  
24 beginning on or after January 1, 1998. The amendment  
25 adding clause (ii) is operative for requests for abatement  
26 made on or after January 1, 1998.

27 (2) The Franchise Tax Board shall abate the  
28 assessment of all interest on any erroneous refund for  
29 which an action for recovery is provided under Section  
30 19411 until 30 days after the date demand for repayment  
31 is made, unless either of the following has occurred:

32 (A) The taxpayer (or a related party) has in any way  
33 caused that erroneous refund.

34 (B) That erroneous refund exceeds fifty thousand  
35 dollars (\$50,000).

36 SEC. 31. Section 19105 of the Revenue and Taxation  
37 Code is amended to read:

38 19105. In the case of an individual or fiduciary, the  
39 Franchise Tax Board shall not assess interest charges  
40 pursuant to Section—19104 19101 for the period between



1 45 days after the date of final review of an audit  
2 determining an additional amount is owed and the date  
3 a notice of proposed deficiency assessment is sent to the  
4 taxpayer.

5 SEC. 32. Section 19106 of the Revenue and Taxation  
6 Code is repealed.

7 ~~19106. Except as provided in Section 19111, interest~~  
8 ~~shall be imposed under Section 19101 with respect to any~~  
9 ~~assessable penalty, additional amount, or addition to tax~~  
10 ~~imposed under this article, as follows:~~

11 ~~(a) In the case of a penalty, additional amount, or~~  
12 ~~addition to tax which, when assessed, is due and payable~~  
13 ~~on notice and demand, other than a penalty imposed~~  
14 ~~under Section 19131 (relating to failure to file a return on~~  
15 ~~or before the due date), Section 19132 (relating to~~  
16 ~~underpayment of tax), or Section 19164 (relating to~~  
17 ~~imposition of the accuracy-related penalty), interest shall~~  
18 ~~be imposed from the date of the notice and demand to the~~  
19 ~~date of payment.~~

20 ~~(b) In the case of a penalty, additional amount, or~~  
21 ~~addition to tax which is initially assessed as a deficiency,~~  
22 ~~other than a penalty imposed under Section 19131~~  
23 ~~(relating to failure to file a return on or before the due~~  
24 ~~date), Section 19132 (relating to underpayment of tax),~~  
25 ~~or Section 19164 (relating to imposition of the~~  
26 ~~accuracy-related penalty), interest shall be imposed from~~  
27 ~~the date of the notice of proposed deficiency assessment~~  
28 ~~to the date of payment.~~

29 ~~(c) In the case of a penalty or addition to tax imposed~~  
30 ~~by Section 19131 (relating to failure to file a return on or~~  
31 ~~before the due date), Section 19132 (relating to~~  
32 ~~underpayment of tax), or Section 19164 (relating to~~  
33 ~~imposition of the accuracy-related penalty), for the~~  
34 ~~period that—~~

35 ~~(1) Begins on the date on which the return of the tax~~  
36 ~~with respect to which that penalty is imposed is required~~  
37 ~~to be filed (including any extensions), and~~

38 ~~(2) Ends on the date of payment of that penalty or~~  
39 ~~addition to tax.~~



1 SEC. 33. Section 19111 of the Revenue and Taxation  
2 Code is repealed.

3 ~~19111. (a) If notice is made for payment of any~~  
4 ~~amount, and if that amount is paid within 15 days after the~~  
5 ~~date of the notice, interest under this article on the~~  
6 ~~amount so paid shall not be imposed for the period after~~  
7 ~~the date of the notice.~~

8 ~~(b) The amendments made by the act adding this~~  
9 ~~subdivision are operative for notices issued on or after~~  
10 ~~January 1, 1998.~~

11 SEC. 34. Section 19115 of the Revenue and Taxation  
12 Code is repealed.

13 ~~19115. Sections 19101 to 19114, inclusive, shall not~~  
14 ~~apply to any failure to pay estimated tax required by~~  
15 ~~Section 19025 or 19136.~~

16 SEC. 35. Section 19120 is added to the Revenue and  
17 Taxation Code, to read:

18 19120. Any portion of any amount which has been  
19 erroneously refunded and which is recoverable by suit  
20 pursuant to Section 19411 shall bear interest at the  
21 adjusted annual rate established pursuant to Section  
22 19521 from the date of the payment of the refund or, in  
23 the case of an individual or fiduciary, from the date a  
24 demand for recovery was made.

25 SEC. 36. Section 19183 of the Revenue and Taxation  
26 Code is amended to read:

27 19183. (a) (1) A penalty shall be imposed for failure  
28 to file correct information returns, as required by this  
29 part, and that penalty shall be determined in accordance  
30 with Section 6721 of the Internal Revenue Code.

31 (2) Section 6721(e) of the Internal Revenue Code is  
32 modified as follows:

33 ~~(A) To refer to subdivision (a) of Section 18641 in lieu~~  
34 ~~of Section 6045(a) of the Internal Revenue Code.~~

35 ~~(B) The to the extent that the reference to Section~~  
36 ~~6041A(b) of the Internal Revenue Code shall not apply.~~

37 (b) (1) A penalty shall be imposed for failure to  
38 furnish correct payee statements as required by this part,  
39 and that penalty shall be determined in accordance with  
40 Section 6722 of the Internal Revenue Code.



1 (2) Section 6722(c) of the Internal Revenue Code is  
2 modified as follows:

3 ~~(A) To refer to subdivision (b) of Section 18641 in lieu~~  
4 ~~of Section 6045(b) of the Internal Revenue Code.~~

5 ~~(B) The to the extent that the~~ references to Sections  
6 6041A(b) and 6041A(e) of the Internal Revenue Code  
7 shall not apply.

8 (c) A penalty shall be imposed for failure to comply  
9 with other information reporting requirements under  
10 this part, and that penalty shall be determined in  
11 accordance with Section 6723 of the Internal Revenue  
12 Code.

13 (d) (1) The provisions of Section 6724 of the Internal  
14 Revenue Code relating to waiver, definitions, and special  
15 rules, shall apply, except as otherwise provided.

16 (2) Section 6724(d)(1) is modified as follows:

17 (A) The following references are substituted:

18 ~~(i) Section 18637, in lieu of Section 6041(a) of the~~  
19 ~~Internal Revenue Code.~~

20 ~~(ii) Section 18638, in lieu of Section 6041A(a) of the~~  
21 ~~Internal Revenue Code.~~

22 ~~(iii)~~

23 (i) Subdivision (a) of Section 18640, in lieu of Section  
24 6044(a)(1) of the Internal Revenue Code.

25 ~~(iv) Subdivision (a) of Section 18641, in lieu of Section~~  
26 ~~6045(a) of the Internal Revenue Code.~~

27 ~~(v)~~

28 (ii) Subdivision (a) of Section 18644, in lieu of Section  
29 6050A(a) of the Internal Revenue Code.

30 ~~(vi) Subdivision (a) of Section 18647, in lieu of Section~~  
31 ~~6052(a) of the Internal Revenue Code.~~

32 (B) References to Sections 4093(c)(4), 4093(e),  
33 4101(d), 6041(b), 6041A(b), 6045(d), 6051(d), and  
34 6053(c)(1) of the Internal Revenue Code shall not apply.

35 (C) The term “information return” shall also include  
36 the return required by paragraph (1) of subdivision (h)  
37 of Section 18662.

38 (3) Section 6724(d)(2) is modified as follows:

39 (A) The following references are substituted:



1 ~~(i) Subdivision (b) of Section 18505, in lieu of Section~~  
2 ~~6034A of the Internal Revenue Code.~~  
3 ~~(ii) Subdivision (a) of Section 18636, in lieu of Section~~  
4 ~~6039(a) of the Internal Revenue Code.~~  
5 ~~(iii)–~~  
6 (i) Subdivision (b) of Section 18640, in lieu of Section  
7 6044(e) of the Internal Revenue Code.  
8 ~~(iv) Subdivision (b) of Section 18641, in lieu of Section~~  
9 ~~6045(b) of the Internal Revenue Code.~~  
10 ~~(v)–~~  
11 (ii) Subdivision (b) of Section 18644, in lieu of Section  
12 6050A(b) of the Internal Revenue Code.  
13 ~~(vi) Subdivision (b) of Section 18647, in lieu of Section~~  
14 ~~6052(b) of the Internal Revenue Code.~~  
15 (B) References to Sections 4093(c)(4)(B), 6031(b),  
16 6037(b), 6041A(e), 6045(d), 6051(d), 6053(b), and  
17 6053(c) of the Internal Revenue Code shall not apply.  
18 (C) The term “payee statement” shall also include the  
19 statement required by paragraph (2) of subdivision (h)  
20 of Section 18662.  
21 (e) In the case of each failure to provide a written  
22 explanation as required by Section 402(f) of the Internal  
23 Revenue Code, at the time prescribed therefor, unless it  
24 is shown that the failure is due to reasonable cause and not  
25 to willful neglect, there shall be paid, on notice and  
26 demand of the Franchise Tax Board and in the same  
27 manner as tax, by the person failing to provide that  
28 written explanation, an amount equal to ten dollars (\$10)  
29 for each failure, but the total amount imposed on that  
30 person for all those failures during any calendar year shall  
31 not exceed five thousand dollars (\$5,000).  
32 (f) Any penalty imposed by this part shall be paid on  
33 notice and demand by the Franchise Tax Board and in the  
34 same manner as tax.  
35 SEC. 37. Section 19411 of the Revenue and Taxation  
36 Code is amended to read:  
37 19411. The Franchise Tax Board may recover any  
38 refund or credit or any portion thereof which is  
39 erroneously made or allowed, together with interest at  
40 the adjusted annual rate established pursuant to Section



1 19521 ~~from the date demand for recovery was made~~  
2 *beginning 30 days after the Franchise Tax Board mails a*  
3 *notice and demand for repayment*, in an action brought  
4 in a court of competent jurisdiction in the County of  
5 Sacramento in the name of the people of the State of  
6 California within whichever of the following periods  
7 expires the later:

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

9 (b) During the period within which the Franchise Tax  
10 Board may mail a notice of proposed deficiency  
11 assessment.

12 ~~(c) In the case of a corporation, interest shall be~~  
13 ~~computed from the date the refund was made or the~~  
14 ~~credit allowed, instead of the date a demand for recovery~~  
15 ~~was made.~~

16 SEC. 38. Section 19524 of the Revenue and Taxation  
17 Code is amended and renumbered to read:

18 ~~19524.—~~

19 *18409.* (a) The Franchise Tax Board shall prescribe  
20 regulations providing standards for determining which  
21 returns shall be filed on magnetic media or in other  
22 machine-readable form. The Franchise Tax Board shall  
23 not require returns of any tax imposed by Part 10  
24 (commencing with Section 17001) on individuals, estates,  
25 and trusts to be other than on paper forms supplied by the  
26 Franchise Tax Board. In prescribing those regulations,  
27 the Franchise Tax Board shall take into account, among  
28 other relevant factors, the ability of the taxpayer to  
29 comply at a reasonable cost with that filing requirement.

30 (b) (1) Subdivision (a) is applicable only to taxpayers  
31 required to file returns on magnetic media or in other  
32 machine-readable form pursuant to Section 6011(e) of  
33 the Internal Revenue Code and the regulations adopted  
34 thereto.

35 (2) For purposes of paragraph (1), the last sentence of  
36 Section 6011(e)(2) of the Internal Revenue Code, shall  
37 not apply.

38 (3) In addition, the regulations under subdivision (a)  
39 shall not require that returns filed on magnetic media or  
40 in other machine-readable form contain more



1 information than is required to be included in similar  
2 returns filed with the Internal Revenue Service under  
3 Section 6011(e) of the United States Internal Revenue  
4 Code and the regulations adopted thereto.

5 (c) In lieu of the magnetic media or other  
6 machine-readable form returns required by this section,  
7 a copy of the similar magnetic media or other  
8 machine-readable form returns filed with the Internal  
9 Revenue Service pursuant to Section 6011(e) of the  
10 Internal Revenue Code, and the regulations adopted  
11 thereto, may be filed with the Franchise Tax Board.

12 SEC. 39. Section 23188 of the Revenue and Taxation  
13 Code is amended to read:

14 23188. In the event that taxes, interest and penalties  
15 have been or shall be assessed against, paid by or collected  
16 from a taxpayer under a ~~subsection~~ *subdivision* of Section  
17 23181 or 23183.1, which assessment, payment or collection  
18 should have been made under a different ~~subsection~~  
19 *subdivision* of such sections, such taxes, interest and  
20 penalties shall be considered as having been assessed,  
21 paid or collected under such different ~~subsection~~  
22 *subdivision* as of the date or dates they were made.

23 SEC. 40. Section 23622.8 of the Revenue and Taxation  
24 Code is amended to read:

25 23622.8. (a) For each income year beginning on or  
26 after January 1, 1998, there shall be allowed a credit  
27 against the "tax" (as defined in Section 23036) to a  
28 qualified taxpayer for hiring a qualified disadvantaged  
29 individual during the income year for employment in the  
30 Manufacturing Enhancement Area. The credit shall be  
31 equal to the sum of each of the following:

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

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

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

38 (4) Twenty percent of the qualified wages in the  
39 fourth year of employment.



1 (5) Ten percent of the qualified wages in the fifth year  
2 of employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the  
6 qualified taxpayer during the income year to qualified  
7 disadvantaged individuals that does not exceed 150  
8 percent of the minimum wage.

9 (B) The total amount of qualified wages which may be  
10 taken into account for purposes of claiming the credit  
11 allowed under this section shall not exceed two million  
12 dollars (\$2,000,000) per income year.

13 (C) Wages received during the 60-month period  
14 beginning with the first day the qualified disadvantaged  
15 individual commences employment with the qualified  
16 taxpayer. Reemployment in connection with any  
17 increase, including a regularly occurring seasonal  
18 increase, in the trade or business operations of the  
19 qualified taxpayer does not constitute commencement of  
20 employment for purposes of this section.

21 (D) Qualified wages do not include any wages paid or  
22 incurred by the qualified taxpayer on or after the  
23 Manufacturing Enhancement Area expiration date.  
24 However, wages paid or incurred with respect to  
25 qualified employees who are employed by the qualified  
26 taxpayer within the Manufacturing Enhancement Area  
27 within the 60-month period prior to the Manufacturing  
28 Enhancement Area expiration date shall continue to  
29 qualify for the credit under this section after the  
30 Manufacturing Enhancement Area expiration date, in  
31 accordance with all provisions of this section applied as if  
32 the Manufacturing Enhancement Area designation were  
33 still in existence and binding.

34 (2) “Minimum wage” means the wage established by  
35 the Industrial Welfare Commission as provided for in  
36 Chapter 1 (commencing with Section 1171) of Part 4 of  
37 Division 2 of the Labor Code.

38 (3) “Manufacturing Enhancement Area” means an  
39 area designated pursuant to Section 7073.8 of the  
40 Government Code according to the procedures of



1 Chapter 12.8 (commencing with Section 7070) of  
2 Division 7 of Title 1 of the Government Code.

3 (4) “Manufacturing Enhancement Area expiration  
4 date” means the date the Manufacturing Enhancement  
5 Area designation expires, is no longer binding, or  
6 becomes inoperative.

7 (5) “Qualified disadvantaged individual” means an  
8 individual who satisfies all of the following requirements:

9 (A) (i) At least 90 percent of whose services for the  
10 qualified taxpayer during the income year are directly  
11 related to the conduct of the qualified taxpayer’s trade or  
12 business located in a Manufacturing Enhancement Area.

13 (ii) Who performs at least 50 percent of his or her  
14 services for the qualified taxpayer during the income year  
15 in the Manufacturing Enhancement Area.

16 (B) Who is hired by the qualified taxpayer after the  
17 designation of the area as a Manufacturing Enhancement  
18 Area in which the individual’s services were primarily  
19 performed.

20 (C) Who is any of the following immediately  
21 preceding the individual’s commencement of  
22 employment with the qualified taxpayer:

23 (i) An individual who has been determined eligible for  
24 services under the federal Job Training Partnership Act  
25 (29 U.S.C. Sec. 1501 et seq.), or its successor.

26 (ii) Any voluntary or mandatory registrant under the  
27 Greater Avenues for Independence Act of 1985, or its  
28 successor, as provided pursuant to Article 3.2  
29 (commencing with Section 11320) of Chapter 2 of Part 3  
30 of Division 9 of the Welfare and Institutions Code.

31 (iii) Any individual who has been certified eligible by  
32 the Employment Development Department under the  
33 federal Targeted Jobs Tax Credit Program, or its  
34 successor, whether or not this program is in effect.

35 (6) “Qualified taxpayer” means any corporation  
36 engaged in a trade or business within a Manufacturing  
37 Enhancement Area designated pursuant to Section  
38 7073.8 of the Government Code and that meets all of the  
39 following requirements:

1 (A) Is engaged in those lines of business described in  
2 Codes 2011 to 3999, inclusive, of the Standard Industrial  
3 Classification (SIC) Manual published by the United  
4 States Office of Management and Budget, 1987 edition.

5 (B) At least 50 percent of the qualified taxpayer's work  
6 force hired after the designation of the Manufacturing  
7 Enhancement Area is composed of individuals who, at the  
8 time of hire, are residents of the county in which the  
9 Manufacturing Enhancement Area is located.

10 (C) Of this percentage of local hires, at least 30  
11 percent shall be qualified disadvantaged individuals.

12 (7) "Seasonal employment" means employment by a  
13 qualified taxpayer that has regular and predictable  
14 substantial reductions in trade or business operations.

15 (c) *For qualified disadvantaged individuals hired on*  
16 *or after January 1, 2001, the taxpayer shall do both of the*  
17 *following:*

18 (1) *Obtain from either the Employment*  
19 *Development Department, as permitted by federal law,*  
20 *or the local county or city Job Training Partnership Act*  
21 *administrative entity or the local county GAIN office or*  
22 *social services agency, as appropriate, a certification that*  
23 *provides that a qualified disadvantaged individual meets*  
24 *the eligibility requirements specified in subparagraph*  
25 *(C) of paragraph (5) of subdivision (b). The*  
26 *Employment Development Department may provide*  
27 *preliminary screening and referral to a certifying agency.*  
28 *The Employment Development Department shall*  
29 *develop a form for this purpose.*

30 (2) *Retain a copy of the certification and provide it*  
31 *upon request to the Franchise Tax Board.*

32 (d) (1) For purposes of this section, all of the  
33 following apply:

34 (A) All employees of all corporations that are  
35 members of the same controlled group of corporations  
36 shall be treated as employed by a single qualified  
37 taxpayer.

38 (B) The credit (if any) allowable by this section with  
39 respect to each member shall be determined by  
40 reference to its proportionate share of the expenses of the



1 qualified wages giving rise to the credit and shall be  
2 allocated in that manner.

3 (C) Principles that apply in the case of controlled  
4 groups of corporations, as specified in subdivision (d) of  
5 Section 23622.7, shall apply with respect to determining  
6 employment.

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

18 ~~(d)~~—

19 (e) (1) (A) If the employment, other than seasonal  
20 employment, of any qualified disadvantaged individual,  
21 with respect to whom qualified wages are taken into  
22 account under subdivision (b) is terminated by the  
23 qualified taxpayer at any time during the first 270 days of  
24 that employment (whether or not consecutive) or before  
25 the close of the 270th calendar day after the day in which  
26 that qualified disadvantaged individual completes 90 days  
27 of employment with the qualified taxpayer, the tax  
28 imposed by this part for the income year in which that  
29 employment is terminated shall be increased by an  
30 amount equal to the credit allowed under subdivision (a)  
31 for that income year and all prior income years  
32 attributable to qualified wages paid or incurred with  
33 respect to that qualified disadvantaged individual.

34 (B) If the seasonal employment of any qualified  
35 disadvantaged individual, with respect to whom qualified  
36 wages are taken into account under subdivision (a) is not  
37 continued by the qualified taxpayer for a period of 270  
38 days of employment during the 60-month period  
39 beginning with the day the qualified disadvantaged  
40 individual commences seasonal employment with the



1 qualified taxpayer, the tax imposed by this part, for the  
2 income year that includes the 60th month following the  
3 month in which the qualified disadvantaged individual  
4 commences seasonal employment with the qualified  
5 taxpayer, shall be increased by an amount equal to the  
6 credit allowed under subdivision (a) for that income year  
7 and all prior income years attributable to qualified wages  
8 paid or incurred with respect to that qualified  
9 disadvantaged individual.

10 (2) (A) Subparagraph (A) of paragraph (1) does not  
11 apply to any of the following:

12 (i) A termination of employment of a qualified  
13 disadvantaged individual who voluntarily leaves the  
14 employment of the qualified taxpayer.

15 (ii) A termination of employment of a qualified  
16 disadvantaged individual who, before the close of the  
17 period referred to in subparagraph (A) of paragraph (1),  
18 becomes disabled to perform the services of that  
19 employment, unless that disability is removed before the  
20 close of that period and the qualified taxpayer fails to offer  
21 reemployment to that individual.

22 (iii) A termination of employment of a qualified  
23 disadvantaged individual, if it is determined that the  
24 termination was due to the misconduct (as defined in  
25 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the  
26 California Code of Regulations) of that individual.

27 (iv) A termination of employment of a qualified  
28 disadvantaged individual due to a substantial reduction in  
29 the trade or business operations of the qualified taxpayer.

30 (v) A termination of employment of a qualified  
31 disadvantaged individual, if that individual is replaced by  
32 other qualified disadvantaged individuals so as to create  
33 a net increase in both the number of employees and the  
34 hours of employment.

35 (B) Subparagraph (B) of paragraph (1) shall not apply  
36 to any of the following:

37 (i) A failure to continue the seasonal employment of  
38 a qualified disadvantaged individual who voluntarily fails  
39 to return to the seasonal employment of the qualified  
40 taxpayer.



1 (ii) A failure to continue the seasonal employment of  
2 a qualified disadvantaged individual who, before the  
3 close of the period referred to in subparagraph (B) of  
4 paragraph (1), becomes disabled and unable to perform  
5 the services of that seasonal employment, unless that  
6 disability is removed before the close of that period and  
7 the qualified taxpayer fails to offer seasonal employment  
8 to that qualified disadvantaged individual.

9 (iii) A failure to continue the seasonal employment of  
10 a qualified disadvantaged individual, if it is determined  
11 that the failure to continue the seasonal employment was  
12 due to the misconduct (as defined in Sections 1256-30 to  
13 1256-43, inclusive, of Title 22 of the California Code of  
14 Regulations) of that qualified disadvantaged individual.

15 (iv) A failure to continue seasonal employment of a  
16 qualified disadvantaged individual due to a substantial  
17 reduction in the regular seasonal trade or business  
18 operations of the qualified taxpayer.

19 (v) A failure to continue the seasonal employment of  
20 a qualified disadvantaged individual, if that qualified  
21 disadvantaged individual is replaced by other qualified  
22 disadvantaged individuals so as to create a net increase in  
23 both the number of seasonal employees and the hours of  
24 seasonal employment.

25 (C) For purposes of paragraph (1), the employment  
26 relationship between the qualified taxpayer and a  
27 qualified disadvantaged individual shall not be treated as  
28 terminated by either of the following:

29 (i) By a transaction to which Section 381(a) of the  
30 Internal Revenue Code applies, if the qualified  
31 disadvantaged individual continues to be employed by  
32 the acquiring corporation.

33 (ii) By reason of a mere change in the form of  
34 conducting the trade or business of the qualified  
35 taxpayer, if the qualified disadvantaged individual  
36 continues to be employed in that trade or business and  
37 the qualified taxpayer retains a substantial interest in that  
38 trade or business.

39 (3) Any increase in tax under paragraph (1) shall not  
40 be treated as tax imposed by this part for purposes of



1 determining the amount of any credit allowable under  
2 this part.

3 ~~(e)~~

4 (f) The credit shall be reduced by the credit allowed  
5 under Section 23621. The credit shall also be reduced by  
6 the federal credit allowed under Section 51 of the Internal  
7 Revenue Code.

8 In addition, any deduction otherwise allowed under  
9 this part for the wages or salaries paid or incurred by the  
10 qualified taxpayer upon which the credit is based shall be  
11 reduced by the amount of the credit, prior to any  
12 reduction required by subdivision ~~(f)~~ (g) or ~~(g)~~ (h).

13 ~~(f)~~

14 (g) In the case where the credit otherwise allowed  
15 under this section exceeds the “tax” for the income year,  
16 that portion of the credit that exceeds the “tax” may be  
17 carried over and added to the credit, if any, in succeeding  
18 years, until the credit is exhausted. The credit shall be  
19 applied first to the earliest income years possible.

20 ~~(g)~~

21 (h) (1) The amount of credit otherwise allowed  
22 under this section, including prior year credit carryovers,  
23 that may reduce the “tax” for the income year shall not  
24 exceed the amount of tax that would be imposed on the  
25 qualified taxpayer’s business income attributed to a  
26 Manufacturing Enhancement Area determined as if that  
27 attributed income represented all of the net income of  
28 the qualified taxpayer subject to tax under this part.

29 (2) Attributable income is that portion of the  
30 taxpayer’s California source business income that is  
31 apportioned to the Manufacturing Enhancement Area.  
32 For that purpose, the taxpayer’s business income  
33 attributable to sources in this state first shall be  
34 determined in accordance with Chapter 17  
35 (commencing with Section 25101). That business income  
36 shall be further apportioned to the Manufacturing  
37 Enhancement Area in accordance with Article 2  
38 (commencing with Section 25120) of Chapter 17,  
39 modified for purposes of this section in accordance with  
40 paragraph (3).



1 (3) Income shall be apportioned to a Manufacturing  
2 Enhancement Area by multiplying the total California  
3 business income of the taxpayer by a fraction, the  
4 numerator of which is the property factor plus the payroll  
5 factor, and the denominator of which is two. For the  
6 purposes of this paragraph:

7 (A) The property factor is a fraction, the numerator of  
8 which is the average value of the taxpayer's real and  
9 tangible personal property owned or rented and used in  
10 the Manufacturing Enhancement Area during the  
11 taxable year, and the denominator of which is the average  
12 value of all the taxpayer's real and tangible personal  
13 property owned or rented and used in this state during  
14 the taxable year.

15 (B) The payroll factor is a fraction, the numerator of  
16 which is the total amount paid by the taxpayer in the  
17 Manufacturing Enhancement Area during the taxable  
18 year for compensation, and the denominator of which is  
19 the total compensation paid by the taxpayer in this state  
20 during the taxable year.

21 (4) The portion of any credit remaining, if any, after  
22 application of this subdivision, shall be carried over to  
23 succeeding income years, as if it were an amount  
24 exceeding the "tax" for the income year, as provided in  
25 subdivision ~~(g)~~ (h).

26 ~~(h)~~

27 (i) If the taxpayer is allowed a credit pursuant to this  
28 section for qualified wages paid or incurred, only one  
29 credit shall be allowed to the taxpayer under this part  
30 with respect to any wage consisting in whole or in part of  
31 those qualified wages.

32 SEC. 41. Section 23646 of the Revenue and Taxation  
33 Code is amended to read:

34 23646. (a) For each income year beginning on or  
35 after January 1, 1995, there shall be allowed as a credit  
36 against the "tax" (as defined in Section 23036) to a  
37 qualified taxpayer for hiring a qualified disadvantaged  
38 individual or a qualified displaced employee during the  
39 income year for employment in the LAMBRA. The credit  
40 shall be equal to the sum of each of the following:



- 1 (1) Fifty percent of the qualified wages in the first year  
2 of employment.
- 3 (2) Forty percent of the qualified wages in the second  
4 year of employment.
- 5 (3) Thirty percent of the qualified wages in the third  
6 year of employment.
- 7 (4) Twenty percent of the qualified wages in the  
8 fourth year of employment.
- 9 (5) Ten percent of the qualified wages in the fifth year  
10 of employment.
- 11 (b) For purposes of this section:
  - 12 (1) “Qualified wages” means:
    - 13 (A) That portion of wages paid or incurred by the  
14 employer during the income year to qualified  
15 disadvantaged individuals or qualified displaced  
16 employees that does not exceed 150 percent of the  
17 minimum wage.
    - 18 (B) The total amount of qualified wages which may be  
19 taken into account for purposes of claiming the credit  
20 allowed under this section shall not exceed two million  
21 dollars (\$2,000,000) per income year.
    - 22 (C) Wages received during the 60-month period  
23 beginning with the first day the individual commences  
24 employment with the taxpayer. Reemployment in  
25 connection with any increase, including a regularly  
26 occurring seasonal increase, in the trade or business  
27 operation of the qualified taxpayer does not constitute  
28 commencement of employment for purposes of this  
29 section.
    - 30 (D) Qualified wages do not include any wages paid or  
31 incurred by the qualified taxpayer on or after the  
32 LAMBRA expiration date. However, wages paid or  
33 incurred with respect to qualified disadvantaged  
34 individuals or qualified displaced employees who are  
35 employed by the qualified taxpayer within the LAMBRA  
36 within the 60-month period prior to the LAMBRA  
37 expiration date shall continue to qualify for the credit  
38 under this section after the LAMBRA expiration date, in  
39 accordance with all provisions of this section applied as if



1 the LAMBRA designation were still in existence and  
2 binding.

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

7 (3) “LAMBRA” means a local agency military base  
8 recovery area designated in accordance with the  
9 provisions of Section 7114 of the Government Code.

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

12 (A) (i) At least 90 percent of whose services for the  
13 taxpayer during the income year are directly related to  
14 the conduct of the taxpayer’s trade or business located in  
15 a LAMBRA.

16 (ii) Who performs at least 50 percent of his or her  
17 services for the taxpayer during the income year in the  
18 LAMBRA.

19 (B) Who is hired by the employer after the  
20 designation of the area as a LAMBRA in which the  
21 individual’s services were primarily performed.

22 (C) Who is any of the following immediately  
23 preceding the individual’s commencement of  
24 employment with the taxpayer:

25 (i) An individual who has been determined eligible for  
26 services under the federal Job Training Partnership Act  
27 (29 U.S.C. Sec. 1501 et seq.).

28 (ii) Any voluntary or mandatory registrant under the  
29 Greater Avenues for Independence Act of 1985 provided  
30 for pursuant to Article 3.2 (commencing with Section  
31 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare  
32 and Institutions Code.

33 (iii) An economically disadvantaged individual age 16  
34 years or older.

35 (iv) A dislocated worker who meets any of the  
36 following conditions:

37 (I) Has been terminated or laid off or who has  
38 received a notice of termination or layoff from  
39 employment, is eligible for or has exhausted entitlement



1 to unemployment insurance benefits, and is unlikely to  
2 return to his or her previous industry or occupation.

3 (II) Has been terminated or has received a notice of  
4 termination of employment as a result of any permanent  
5 closure or any substantial layoff at a plant, facility, or  
6 enterprise, including an individual who has not received  
7 written notification but whose employer has made a  
8 public announcement of such a closure or layoff.

9 (III) Is long-term unemployed and has limited  
10 opportunities for employment or reemployment in the  
11 same or a similar occupation in the area in which the  
12 individual resides, including an individual 55 years of age  
13 or older who may have substantial barriers to  
14 employment by reason of age.

15 (IV) Was self-employed (including farmers and  
16 ranchers) and is unemployed as a result of general  
17 economic conditions in the community in which he or she  
18 resides or because of natural disasters.

19 (V) Was a civilian employee of the Department of  
20 Defense employed at a military installation being closed  
21 or realigned under the Defense Base Closure and  
22 Realignment Act of 1990.

23 (VI) Was an active member of the armed forces or  
24 National Guard as of September 30, 1990, and was either  
25 involuntarily separated or separated pursuant to a special  
26 benefits program.

27 (VII) Experiences chronic seasonal unemployment  
28 and underemployment in the agriculture industry,  
29 aggravated by continual advancements in technology  
30 and mechanization.

31 (VIII) Has been terminated or laid off or has received  
32 a notice of termination or layoff as a consequence of  
33 compliance with the Clean Air Act.

34 (v) An individual who is enrolled in or has completed  
35 a state rehabilitation plan or is a service-connected  
36 disabled veteran, veteran of the Vietnam era, or veteran  
37 who is recently separated from military service.

38 (vi) An ex-offender. An individual shall be treated as  
39 convicted if he or she was placed on probation by a state  
40 court without a finding of guilty.



- 1 (vii) A recipient of:
  - 2 (I) Federal Supplemental Security Income benefits.
  - 3 (II) Aid to Families with Dependent Children.
  - 4 (III) Food stamps.
  - 5 (IV) State and local general assistance.
- 6 (viii) Is a member of a federally recognized Indian
- 7 tribe, band, or other group of Native American descent.
- 8 (5) “Qualified taxpayer” means a corporation that
- 9 conducts a trade or business within a LAMBRA and, for
- 10 the first two income years, has a net increase in jobs
- 11 (defined as 2,000 paid hours per employee per year) of
- 12 one or more employees as determined below in the
- 13 LAMBRA.
  - 14 (A) The net increase in the number of jobs shall be
  - 15 determined by subtracting the total number of full-time
  - 16 employees (defined as 2,000 paid hours per employee per
  - 17 year) the taxpayer employed in this state in the income
  - 18 year prior to commencing business operations in the
  - 19 LAMBRA from the total number of full-time employees
  - 20 the taxpayer employed in this state during the second
  - 21 income year after commencing business operations in the
  - 22 LAMBRA. For taxpayers who commence doing business
  - 23 in this state with their LAMBRA business operation, the
  - 24 number of employees for the income year prior to
  - 25 commencing business operations in the LAMBRA shall
  - 26 be zero. If the taxpayer has a net increase in jobs in the
  - 27 state, the credit shall be allowed only if one or more
  - 28 full-time employees is employed within the LAMBRA.
  - 29 (B) The total number of employees employed in the
  - 30 LAMBRA shall equal the sum of both of the following:
    - 31 (i) The total number of hours worked in the LAMBRA
    - 32 for the taxpayer by employees (not to exceed 2,000 hours
    - 33 per employee) who are paid an hourly wage divided by
    - 34 2,000.
    - 35 (ii) The total number of months worked in the
    - 36 LAMBRA for the taxpayer by employees who are salaried
    - 37 employees divided by 12.
  - 38 (C) In the case of a qualified taxpayer that first
  - 39 commences doing business in the LAMBRA during the
  - 40 income year, for purposes of clauses (i) and (ii),



1 respectively, of subparagraph (B) the divisors “2,000”  
2 and “12” shall be multiplied by a fraction, the numerator  
3 of which is the number of months of the income year that  
4 the taxpayer was doing business in the LAMBRA and the  
5 denominator of which is 12.

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

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

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

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

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

21 (7) “Seasonal employment” means employment by a  
22 qualified taxpayer that has regular and predictable  
23 substantial reductions in trade or business operations.

24 (8) “LAMBRA expiration date” means the date the  
25 LAMBRA designation expires, is no longer binding, or  
26 becomes inoperative.

27 (c) *For qualified disadvantaged individuals or*  
28 *qualified displaced employees hired on or after January*  
29 *1, 2001, the taxpayer shall do both of the following:*

30 (1) *Obtain from either the Employment*  
31 *Development Department, as permitted by federal law,*  
32 *or the local county or city Job Training Partnership Act*  
33 *administrative entity or the local county GAIN office or*  
34 *social services agency, as appropriate, a certification that*  
35 *provides that a qualified disadvantaged individual or*  
36 *qualified displaced employee meets the eligibility*  
37 *requirements specified in subparagraph (C) of*  
38 *paragraph (4) of subdivision (b) or subparagraph (A) of*  
39 *paragraph (6) of subdivision (b). The Employment*  
40 *Development Department may provide preliminary*



1 *screening and referral to a certifying agency. The*  
2 *Employment Development Department shall develop a*  
3 *form for this purpose.*

4 (2) *Retain a copy of the certification and provide it*  
5 *upon request to the Franchise Tax Board.*

6 (d) (1) For purposes of this section, both of the  
7 following apply:

8 (A) All employees of all corporations that are  
9 members of the same controlled group of corporations  
10 shall be treated as employed by a single employer.

11 (B) The credit (if any) allowable by this section to  
12 each member shall be determined by reference to its  
13 proportionate share of the qualified wages giving rise to  
14 the credit.

15 (2) For purposes of this subdivision, “controlled group  
16 of corporations” has the meaning given to that term by  
17 Section 1563(a) of the Internal Revenue Code, except  
18 that both of the following apply:

19 (A) “More than 50 percent” shall be substituted for “at  
20 least 80 percent” each place it appears in Section  
21 1563(a)(1) of the Internal Revenue Code.

22 (B) The determination shall be made without regard  
23 to Section 1563(a)(4) and Section 1563(e)(3)(C) of the  
24 Internal Revenue Code.

25 (3) If an employer acquires the major portion of a  
26 trade or business of another employer (hereinafter in this  
27 paragraph referred to as the “predecessor”) or the major  
28 portion of a separate unit of a trade or business of a  
29 predecessor, then, for purposes of applying this section  
30 (other than subdivision—~~(d)~~ (e)) for any calendar year  
31 ending after that acquisition, the employment  
32 relationship between an employee and an employer shall  
33 not be treated as terminated if the employee continues to  
34 be employed in that trade or business.

35 ~~(d)~~

36 (e) (1) (A) If the employment of any employee,  
37 other than seasonal employment, with respect to whom  
38 qualified wages are taken into account under subdivision  
39 (a) is terminated by the taxpayer at any time during the  
40 first 270 days of that employment (whether or not



1 consecutive) or before the close of the 270th calendar day  
2 after the day in which that employee completes 90 days  
3 of employment with the taxpayer, the tax imposed by this  
4 part for the income year in which that employment is  
5 terminated shall be increased by an amount equal to the  
6 credit allowed under subdivision (a) for that income year  
7 and all prior income years attributable to qualified wages  
8 paid or incurred with respect to that employee.

9 (B) If the seasonal employment of any qualified  
10 disadvantaged individual, with respect to whom qualified  
11 wages are taken into account under subdivision (a) is not  
12 continued by the qualified taxpayer for a period of 270  
13 days of employment during the 60-month period  
14 beginning with the day the qualified disadvantaged  
15 individual commences seasonal employment with the  
16 qualified taxpayer, the tax imposed by this part, for the  
17 income year that includes the 60th month following the  
18 month in which the qualified disadvantaged individual  
19 commences seasonal employment with the qualified  
20 taxpayer, shall be increased by an amount equal to the  
21 credit allowed under subdivision (a) for that income year  
22 and all prior income years attributable to qualified wages  
23 paid or incurred with respect to that qualified  
24 disadvantaged individual.

25 (2) (A) Subparagraph (A) of paragraph (1) shall not  
26 apply to any of the following:

27 (i) A termination of employment of an employee who  
28 voluntarily leaves the employment of the taxpayer.

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

35 (iii) A termination of employment of an individual, if  
36 it is determined that the termination was due to the  
37 misconduct (as defined in Sections 1256-30 to 1256-43,  
38 inclusive, of Title 22 of the California Code of  
39 Regulations) of that individual.



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

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

8 (B) Subparagraph (B) of paragraph (1) shall not apply  
9 to any of the following:

10 (i) A failure to continue the seasonal employment of  
11 a qualified disadvantaged individual who voluntarily fails  
12 to return to the seasonal employment of the qualified  
13 taxpayer.

14 (ii) A failure to continue the seasonal employment of  
15 a qualified disadvantaged individual who, before the  
16 close of the period referred to in subparagraph (B) of  
17 paragraph (1), becomes disabled and unable to perform  
18 the services of that seasonal employment, unless that  
19 disability is removed before the close of that period and  
20 the qualified taxpayer fails to offer seasonal employment  
21 to that qualified disadvantaged individual.

22 (iii) A failure to continue the seasonal employment of  
23 a qualified disadvantaged individual, if it is determined  
24 that the failure to continue the seasonal employment was  
25 due to the misconduct (as defined in Sections 1256-30 to  
26 1256-43, inclusive, of Title 22 of the California Code of  
27 Regulations) of that individual.

28 (iv) A failure to continue seasonal employment of a  
29 qualified disadvantaged individual due to a substantial  
30 reduction in the regular seasonal trade or business  
31 operations of the qualified taxpayer.

32 (v) A failure to continue the seasonal employment of  
33 a qualified disadvantaged individual, if that individual is  
34 replaced by other qualified disadvantaged individuals so  
35 as to create a net increase in both the number of seasonal  
36 employees and the hours of seasonal employment.

37 (C) For purposes of paragraph (1), the employment  
38 relationship between the taxpayer and an employee shall  
39 not be treated as terminated by either of the following:



1 (i) A transaction to which Section 381(a) of the  
2 Internal Revenue Code applies, if the employee  
3 continues to be employed by the acquiring corporation.

4 (ii) A mere change in the form of conducting the trade  
5 or business of the taxpayer, if the employee continues to  
6 be employed in that trade or business and the taxpayer  
7 retains a substantial interest in that trade or business.

8 (3) Any increase in tax under paragraph (1) shall not  
9 be treated as tax imposed by this part for purposes of  
10 determining the amount of any credit allowable under  
11 this part.

12 (4) At the close of the second income year, if the  
13 taxpayer has not increased the number of its employees  
14 as determined by paragraph (5) of subdivision (b), then  
15 the amount of the credit previously claimed shall be  
16 added to the taxpayer's tax for the taxpayer's second  
17 income year.

18 ~~(e)~~

19 (f) In the case of an organization to which Section 593  
20 of the Internal Revenue Code applies, and a regulated  
21 investment company or a real estate investment trust  
22 subject to taxation under this part, rules similar to the  
23 rules provided in Section 46(e) and Section 46(h) of the  
24 Internal Revenue Code shall apply.

25 ~~(f)~~

26 (g) The credit shall be reduced by the credit allowed  
27 under Section 23621. The credit shall also be reduced by  
28 the federal credit allowed under Section 51 of the Internal  
29 Revenue Code.

30 In addition, any deduction otherwise allowed under  
31 this part for the wages or salaries paid or incurred by the  
32 taxpayer upon which the credit is based shall be reduced  
33 by the amount of the credit, prior to any reduction  
34 required by subdivision ~~(g)~~ (h) or ~~(h)~~ (i).

35 ~~(g)~~

36 (h) In the case where the credit otherwise allowed  
37 under this section exceeds the "tax" for the income year,  
38 that portion of the credit that exceeds the "tax" may be  
39 carried over and added to the credit, if any, in succeeding



1 years, until the credit is exhausted. The credit shall be  
2 applied first to the earliest income years possible.

3 ~~(h)~~

4 (i) (1) The amount of credit otherwise allowed under  
5 this section and Section 23645, including any prior year  
6 carryovers, that may reduce the “tax” for the income year  
7 shall not exceed the amount of tax that would be imposed  
8 on the taxpayer’s business income attributed to a  
9 LAMBRA determined as if that attributed income  
10 represented all of the income of the taxpayer subject to  
11 tax under this part.

12 (2) Attributable income shall be that portion of the  
13 taxpayer’s California source business income that is  
14 apportioned to the LAMBRA. For that purpose, the  
15 taxpayer’s business income that is attributable to sources  
16 in this state first shall be determined in accordance with  
17 Chapter 17 (commencing with Section 25101). That  
18 business income shall be further apportioned to the  
19 LAMBRA in accordance with Article 2 (commencing  
20 with Section 25120) of Chapter 17, modified for purposes  
21 of this section in accordance with paragraph (3).

22 (3) Income shall be apportioned to a LAMBRA by  
23 multiplying the total California business income of the  
24 taxpayer by a fraction, the numerator of which is the  
25 property factor plus the payroll factor, and the  
26 denominator of which is two. For purposes of this  
27 paragraph:

28 (A) The property factor is a fraction, the numerator of  
29 which is the average value of the taxpayer’s real and  
30 tangible personal property owned or rented and used in  
31 the LAMBRA during the income year, and the  
32 denominator of which is the average value of all the  
33 taxpayer’s real and tangible personal property owned or  
34 rented and used in this state during the income year.

35 (B) The payroll factor is a fraction, the numerator of  
36 which is the total amount paid by the taxpayer in the  
37 LAMBRA during the income year for compensation, and  
38 the denominator of which is the total compensation paid  
39 by the taxpayer in this state during the income year.



1 (4) The portion of any credit remaining, if any, after  
2 application of this subdivision, shall be carried over to  
3 succeeding income years, as if it were an amount  
4 exceeding the “tax” for the income year, as provided in  
5 subdivision-~~(g)~~ (h).

6 ~~(i)~~

7 (j) If the taxpayer is allowed a credit pursuant to this  
8 section for qualified wages paid or incurred, only one  
9 credit shall be allowed to the taxpayer under this part  
10 with respect to any wage consisting in whole or in part of  
11 those qualified wages.

12 SEC. 42. Section 23701b of the Revenue and Taxation  
13 Code is repealed.

14 ~~23701b. Fraternal beneficiary societies, orders, or~~  
15 ~~organizations, (i) operating under the lodge system or~~  
16 ~~for the exclusive benefit of the members of a fraternity~~  
17 ~~itself operating under the lodge system; and~~  
18 ~~(ii) providing for the payment of life, sick, accident, or~~  
19 ~~other benefits to the members of such society, order or~~  
20 ~~organization or their dependents.~~

21 SEC. 43. Section 23701b is added to the Revenue and  
22 Taxation Code, to read:

23 23701b. A fraternal order described in Section  
24 501(c)(8) of the Internal Revenue Code.

25 SEC. 44. Section 23701c of the Revenue and Taxation  
26 Code is repealed.

27 ~~23701e. Cemetery companies owned and operated~~  
28 ~~exclusively for the benefit of their members or which are~~  
29 ~~not operated for profit; and any corporation chartered~~  
30 ~~solely for the purpose of the disposal of bodies by burial~~  
31 ~~or cremation which is not permitted by its charter to~~  
32 ~~engage in any business not necessarily incident to that~~  
33 ~~purpose and no part of the net earnings of which inures~~  
34 ~~to the benefit of any private shareholder or individual.~~

35 SEC. 45. Section 23701c is added to the Revenue and  
36 Taxation Code, to read:

37 23701c. A cemetery company described in Section  
38 501(c)(13) of the Internal Revenue Code.

39 SEC. 46. Section 23701e of the Revenue and Taxation  
40 Code is repealed.



1 ~~23701e. Business leagues, chambers of commerce,~~  
2 ~~real estate boards, or boards of trade, not organized for~~  
3 ~~profit and no part of the net earnings of which inures to~~  
4 ~~the benefit of any private shareholder or individual.~~

5 SEC. 47. Section 23701e is added to the Revenue and  
6 Taxation Code, to read:

7 23701e. A business league, chamber of commerce,  
8 real estate board, or a board of trade described in Section  
9 501(c)(6) of the Internal Revenue Code, except that the  
10 phrase “or professional football leagues (whether or not  
11 administering a pension fund for football players)” shall  
12 not apply.

13 SEC. 48. Section 23701f of the Revenue and Taxation  
14 Code is repealed.

15 ~~23701f. Civic leagues or organizations not organized~~  
16 ~~for profit but operated exclusively for the promotion of~~  
17 ~~social welfare, or local organizations of employees, the~~  
18 ~~membership of which is limited to the employees of a~~  
19 ~~designated person or persons in a particular municipality,~~  
20 ~~and the net earnings of which are devoted exclusively to~~  
21 ~~charitable, educational, or recreational purposes.~~

22 ~~An organization is not organized exclusively for exempt~~  
23 ~~purposes listed above unless its assets are irrevocably~~  
24 ~~dedicated to one or more purposes listed in this section.~~

25 SEC. 49. Section 23701f is added to the Revenue and  
26 Taxation Code, to read:

27 23701f. (a) A civic league, social welfare  
28 organization, or local organization of employees  
29 described in Section 501(c)(4) of the Internal Revenue  
30 Code, except as otherwise provided.

31 (b) An organization is not organized exclusively for  
32 exempt purposes under Section 501(c)(4) of the Internal  
33 Revenue Code unless its assets are irrevocably dedicated  
34 to one or more purposes listed in Section 501(c)(4) of the  
35 Internal Revenue Code.

36 SEC. 50. Section 23701g of the Revenue and Taxation  
37 Code is repealed.

38 ~~23701g. Clubs organized for pleasure, recreation, and~~  
39 ~~other nonprofitable purposes, substantially all of the~~  
40 ~~activities of which are for those purposes, and no part of~~



1 ~~the net earnings of which inures to the benefit of any~~  
2 ~~private shareholder.~~

3 SEC. 51. Section 23701g is added to the Revenue and  
4 Taxation Code, to read:

5 23701g. A social organization described in Section  
6 501(c)(7) of the Internal Revenue Code.

7 SEC. 52. Section 23701i is added to the Revenue and  
8 Taxation Code, to read:

9 23701i. A voluntary employees' beneficiary  
10 association described in Section 501(c)(9) of the Internal  
11 Revenue Code.

12 SEC. 53. Section 23701j of the Revenue and Taxation  
13 Code is repealed.

14 ~~23701j. Teachers' retirement fund organizations of a~~  
15 ~~purely local character, if (i) no part of their net earnings~~  
16 ~~inures (other than through payment of retirement~~  
17 ~~benefits) to the benefit of any private shareholder or~~  
18 ~~individual, and (ii) the income consists solely of amounts~~  
19 ~~received from public taxation, amounts received from~~  
20 ~~assessments upon the teaching salaries of members, and~~  
21 ~~income in respect of investments.~~

22 SEC. 54. Section 23701j is added to the Revenue and  
23 Taxation Code, to read:

24 23701j. A teacher's retirement fund association  
25 described in Section 501(c)(11) of the Internal Revenue  
26 Code.

27 SEC. 55. Section 23701l of the Revenue and Taxation  
28 Code is repealed.

29 ~~23701l. Domestic fraternal societies, orders or~~  
30 ~~associations, operating under the lodge system the net~~  
31 ~~earnings of which are devoted exclusively to religious,~~  
32 ~~charitable, scientific, literary, educational, and fraternal~~  
33 ~~purposes and, which do not provide for the payment of~~  
34 ~~life, sick, accident, or other benefits. For the purposes of~~  
35 ~~this section, the term "domestic" means created or~~  
36 ~~organized in the United States or under the law of the~~  
37 ~~United States or of any state or territory.~~

38 SEC. 56. Section 23701l is added to the Revenue and  
39 Taxation Code, to read:



1 23701l. (a) A domestic fraternal society described in  
2 Section 501(c)(10) of the Internal Revenue Code, except  
3 as otherwise provided.

4 (b) For purposes of this section, the term “domestic”  
5 means created or organized in the United States or under  
6 the law of the United States or of any state or territory  
7 therein.

8 SEC. 57. Section 23701n of the Revenue and Taxation  
9 Code is repealed.

10 ~~23701n. (a) A trust or trusts forming part of a plan  
11 providing for the payment of supplemental  
12 unemployment compensation benefits, if—~~

13 ~~(1) Under the plan, it is impossible, at any time prior  
14 to the satisfaction of all liabilities with respect to  
15 employees under the plan, for any part of the corpus or  
16 income to be (within the income year or thereafter) used  
17 for, or diverted to, any purpose other than the providing  
18 of supplemental unemployment compensation benefits;~~

19 ~~(2) Such benefits are payable to employees under a  
20 classification which is set forth in the plan and which is  
21 found by the Franchise Tax Board not to be  
22 discriminatory in favor of employees who are highly  
23 compensated employees within the meaning of Section  
24 414(q) of the Internal Revenue Code, and~~

25 ~~(3) Such benefits do not discriminate in favor of  
26 employees who are highly compensated employees  
27 within the meaning of Section 414(q) of the Internal  
28 Revenue Code. A plan shall not be considered  
29 discriminatory within the meaning of this clause merely  
30 because the benefits received under the plan bear a  
31 uniform relationship to the total compensation, or the  
32 basic or regular rate of compensation, of the employees  
33 covered by the plan.~~

34 ~~(b) In determining whether a plan meets the  
35 requirements of subdivision (a), any benefits provided  
36 under any other plan shall not be taken into  
37 consideration, except that a plan shall not be considered  
38 discriminatory—~~

39 ~~(1) Merely because the benefits under the plan which  
40 are first determined in a nondiscriminatory manner~~



1 ~~within the meaning of subdivision (a) are then reduced~~  
2 ~~by any sick, accident, or unemployment compensation~~  
3 ~~benefits received under state or federal law (or reduced~~  
4 ~~by a portion of such benefits if determined in a~~  
5 ~~nondiscriminatory manner), or~~

6 ~~(2) Merely because the plan provides only for~~  
7 ~~employees who are not eligible to receive sick, accident,~~  
8 ~~or unemployment compensation benefits under state or~~  
9 ~~federal law the same benefits (or a portion of such~~  
10 ~~benefits if determined in a nondiscriminatory manner)~~  
11 ~~which such employees would receive under such laws if~~  
12 ~~such employees were eligible for such benefits, or~~

13 ~~(3) Merely because the plan provides only for~~  
14 ~~employees who are not eligible under another plan~~  
15 ~~(which meets the requirements of subdivision (a)) of~~  
16 ~~supplemental unemployment compensation benefits~~  
17 ~~provided wholly by the employer the same benefits (or~~  
18 ~~a portion of such benefits if determined in a~~  
19 ~~nondiscriminatory manner) which such employees~~  
20 ~~would receive under such other plan if such employees~~  
21 ~~were eligible under such other plan, but only if the~~  
22 ~~employees were eligible under both plans would make a~~  
23 ~~classification which would be nondiscriminatory within~~  
24 ~~the meaning of subdivision (a).~~

25 ~~(e) A plan shall be considered to meet the~~  
26 ~~requirements of subdivision (a) during the whole of any~~  
27 ~~year of the plan if on one day in each quarter it satisfies~~  
28 ~~such requirements.~~

29 ~~(d) The term “supplemental unemployment~~  
30 ~~compensation benefits” means only—~~

31 ~~(1) Benefits which are paid to an employee because of~~  
32 ~~his or her involuntary separation from the employment~~  
33 ~~of the employer (whether or not such separation is~~  
34 ~~temporary) resulting directly from a reduction in force,~~  
35 ~~the discontinuance of a plant or operation, or other~~  
36 ~~similar conditions, and~~

37 ~~(2) Sick and accident benefits subordinate to the~~  
38 ~~benefits described in paragraph (1).~~

39 ~~(e) Exemption shall not be denied under this article to~~  
40 ~~any organization entitled to such exemption as an~~



1 ~~association described in Section 23701i merely because~~  
2 ~~such organization provides for the payment of~~  
3 ~~supplemental unemployment benefits (as defined in~~  
4 ~~paragraph (1) of subdivision (d)).~~

5 SEC. 58. Section 23701n is added to the Revenue and  
6 Taxation Code, to read:

7 23701n. (a) A supplemental unemployment  
8 compensation trust described in Section 501(c)(17) of  
9 the Internal Revenue Code, except as otherwise  
10 provided.

11 (b) The following references in Section  
12 501(c)(17)(E) of the Internal Revenue Code shall be  
13 modified as follows:

14 (1) The phrase “under Section 23701” shall be  
15 substituted for the phrase “under subsection (a).”

16 (2) The phrase “Section 23701i” shall be substituted  
17 for the phrase “paragraph (9) of this subsection.”

18 SEC. 59. Section 23701s of the Revenue and Taxation  
19 Code is repealed.

20 ~~23701s. A trust or trusts created before June 25, 1959,~~  
21 ~~forming part of a plan providing for the payment of~~  
22 ~~benefits under a pension plan funded only by~~  
23 ~~contributions of employees, if —~~

24 ~~(a) Under the plan, it is impossible, at any time prior~~  
25 ~~to the satisfaction of all liabilities with respect to~~  
26 ~~employees under the plan, for any part of the corpus or~~  
27 ~~income to be (within the taxable year or thereafter) used~~  
28 ~~for, or diverted to, any purpose other than the providing~~  
29 ~~of benefits under the plan;~~

30 ~~(b) Those benefits are payable to employees under a~~  
31 ~~classification which is set forth in the plan and which is~~  
32 ~~found by the Franchise Tax Board not to be~~  
33 ~~discriminatory in favor of employees who are highly~~  
34 ~~compensated employees within the meaning of Section~~  
35 ~~414(q) of the Internal Revenue Code, and~~

36 ~~(c) Those benefits do not discriminate in favor of~~  
37 ~~employees who are highly compensated employees~~  
38 ~~within the meaning of Section 414(q) of the Internal~~  
39 ~~Revenue Code. A plan shall not be considered~~  
40 ~~discriminatory within the meaning of this paragraph~~



1 merely because the benefits received under the plan bear  
2 a uniform relationship to the total compensation, or the  
3 basic or regular rate of compensation, of the employees  
4 covered by the plan, and

5 (d) In the case of a plan under which an employee may  
6 designate certain contributions as deductible—

7 (1) Those contributions do not exceed the amount  
8 with respect to which a deduction is allowable under  
9 Section 219(b)(3) of the Internal Revenue Code;

10 (2) Requirements similar to the requirements of  
11 Section 401(k)(3)(A)(ii) of the Internal Revenue Code  
12 are met with respect to those elective contributions.

13 (3) Those contributions are treated as elective  
14 deferrals for purposes of Section 402(g) (other than  
15 paragraph (4) thereof) of the Internal Revenue Code,  
16 and

17 (4) The requirements of Section 401(a)(30) of the  
18 Internal Revenue Code are met.

19 SEC. 60. Section 23701s is added to the Revenue and  
20 Taxation Code, to read:

21 23701s. (a) An employee-funded pension trust  
22 described in Section 501(c)(18) of the Internal Revenue  
23 Code, except as otherwise provided.

24 (b) The last sentence in Section 501(c)(18) of the  
25 Internal Revenue Code, relating to excess contributions  
26 under Section 4979, shall not apply.

27 SEC. 61. Section 23702 of the Revenue and Taxation  
28 Code is repealed.

29 23702. (a) An organization operated for the primary  
30 purpose of carrying on a trade or business for profit shall  
31 not be exempt from taxation under any section of this  
32 article on the ground that all of its profits are payable to  
33 one or more organizations exempt from taxation under  
34 this article, or on the basis that it is using all its profits for  
35 purposes which would be exempt from taxation under  
36 this article, if conducted by a separate corporation.

37 (b) For the purposes of this section the term “trade or  
38 business” shall not include:



1 ~~(1) The deriving of rents which would be excluded~~  
2 ~~under paragraph (3) of subdivision (b) of Section 23732~~  
3 ~~if Section 23732 applied to the organization;~~

4 ~~(2) Any trade or business in which substantially all the~~  
5 ~~work in carrying on such trade or business is performed~~  
6 ~~for the organization without compensation, or~~

7 ~~(3) Any trade or business which is the selling of~~  
8 ~~merchandise, substantially all of which has been received~~  
9 ~~by the organization as gifts or contributions.~~

10 SEC. 62. Section 23702 is added to the Revenue and  
11 Taxation Code, to read:

12 23702. Section 502 of the Internal Revenue Code,  
13 relating to feeder organizations, shall apply, except as  
14 otherwise provided.

15 (a) Exemption shall not be allowed to any  
16 organization on the basis that all of its profits are payable  
17 to another organization exempt from taxation under  
18 either Section 501 of the Internal Revenue Code or this  
19 article, if that business activity is being conducted by a  
20 separate organization.

21 (b) The reference to Section 501 of the Internal  
22 Revenue Code, relating to exemption, shall be modified  
23 to refer to Section 23701.

24 (c) The reference to Sections 512 and 512(b)(3) of the  
25 Internal Revenue Code, relating to the exclusion of the  
26 deriving of rents from the definition of “trade or  
27 business,” shall be modified to refer to Section 23732.

28 SEC. 63. Section 23704 of the Revenue and Taxation  
29 Code is repealed.

30 ~~23704. For purposes of this part, an organization shall~~  
31 ~~be treated as an organization organized and operated~~  
32 ~~exclusively for charitable purposes, if:~~

33 ~~(a) The organization is organized and operated solely:~~

34 ~~(1) To perform, on a centralized basis, one or more of~~  
35 ~~the following services which, if performed on its own~~  
36 ~~behalf by a hospital that is an organization described in~~  
37 ~~Section 23701d and exempt from taxation under Section~~  
38 ~~23701, would constitute activities in exercising or~~  
39 ~~performing the purpose or function constituting the basis~~  
40 ~~for its exemption: data processing, purchasing (including~~



1 the purchasing of insurance on a group basis);  
2 warehousing, billing and collection (including the  
3 purchase of patron accounts receivable on a recourse  
4 basis), food, clinical, industrial engineering, laboratory,  
5 laundry, printing, communications, record center, and  
6 personnel (including selection, testing, training, and  
7 education of personnel) services; and

8 (2) To perform those services solely for two or more  
9 hospitals, and for no other individuals or organizations,  
10 each of which is:

11 (A) An organization described in Section 23701d that  
12 is exempt from taxation under Section 23701, or

13 (B) A constituent part of an organization described in  
14 Section 23701d that is exempt from taxation under  
15 Section 23701 and that, if organized and operated as a  
16 separate entity, would constitute an organization  
17 described in Section 23701d, or

18 (C) Owned and operated by the United States, the  
19 state, a county, or political subdivision, or an agency or  
20 instrumentality of any of the foregoing.

21 (b) The organization is organized and operated on a  
22 cooperative basis and allocates or pays, within 8½  
23 months after the close of its income year, all net earnings  
24 to members on the basis of services performed for them.

25 (c) If the organization has capital stock, all of that stock  
26 outstanding is owned by its members.

27 For purposes of this part, any organization that, by  
28 reason of the preceding sentence, is an organization  
29 described in Section 23701d and exempt from taxation  
30 under Section 23701, shall be treated as a hospital and as  
31 an organization referred to in Section 23736(e).

32 SEC. 64. Section 23704 is added to the Revenue and  
33 Taxation Code, to read:

34 23704. Section 501(e) of the Internal Revenue Code,  
35 relating to cooperative hospital service organizations,  
36 shall apply, except as otherwise provided.

37 (a) References to Section 501(c)(3) of the Internal  
38 Revenue Code, relating to charitable organizations, shall  
39 be modified to refer to Section 23701d.



1 (b) References to Section 501(a) of the Internal  
2 Revenue Code, relating to exemptions, shall be modified  
3 to refer to Section 23701.

4 (c) The services which may be provided under Section  
5 501(e)(1) of the Internal Revenue Code shall include  
6 laundry services.

7 (d) Section 501(e)(1)(B)(iii) of the Internal Revenue  
8 Code is modified by substituting the phrase “owned and  
9 operated by the United States, the State, or a county or  
10 political subdivision thereof, or an agency or  
11 instrumentality of any of the foregoing” for the phrase  
12 “owned and operated by the United States, a State, the  
13 District of Columbia, or a possession of the United States,  
14 or a political subdivision or an agency or instrumentality  
15 of any of the foregoing.”

16 (e) References to Section 170(b)(1)(A)(iii) of the  
17 Internal Revenue Code, relating to the deductibility of  
18 contributions to hospitals, shall be modified to refer to  
19 subdivision (e) of Section 23736.

20 SEC. 65. Section 23704.3 of the Revenue and Taxation  
21 Code is repealed.

22 ~~23704.3. An organization shall not fail to be treated as  
23 organized and operated exclusively for a charitable  
24 purpose for purposes of Section 23701d solely because a  
25 hospital that is owned and operated by the organization  
26 participates in a provider-sponsored organization, as  
27 defined in Section 1853(e) of the Social Security Act,  
28 whether or not the provider-sponsored organization is  
29 exempt from tax. For purposes of Section 23701d, any  
30 person with a material financial interest in such a  
31 provider-sponsored organization shall be treated as a  
32 private shareholder or individual with respect to the  
33 hospital.~~

34 SEC. 66. Section 23704.3 is added to the Revenue and  
35 Taxation Code, to read:

36 23704.3. Section 501(o) of the Internal Revenue  
37 Code, relating to treatment of hospitals participating in  
38 provider-sponsored organizations, shall apply, except  
39 that the reference to Section 501(c)(3) of the Internal



1 Revenue Code, relating to charitable organizations, shall  
2 be modified to refer to Section 23701d.

3 SEC. 67. Section 23704.4 of the Revenue and Taxation  
4 Code is repealed.

5 ~~23704.4. For purposes of Section 23701d and~~  
6 ~~paragraph (2) of subdivision (b) of Section 24359, the~~  
7 ~~term “educational purposes” includes the providing of~~  
8 ~~care of children away from their home if both of the~~  
9 ~~following are satisfied:~~

10 ~~(1) Substantially all of the care provided by the~~  
11 ~~organization is for the purposes of enabling individuals to~~  
12 ~~be gainfully employed.~~

13 ~~(2) The services provided by the organization are~~  
14 ~~available to the general public.~~

15 SEC. 68. Section 23704.4 is added to the Revenue and  
16 Taxation Code, to read:

17 23704.4. Section 501(k) of the Internal Revenue  
18 Code, relating to the treatment of certain organizations  
19 providing care of children, shall apply, except as  
20 otherwise provided.

21 (a) The reference to Section 501(c)(3) of the Internal  
22 Revenue Code, relating to charitable organizations, shall  
23 be modified to refer to Section 23701d.

24 (b) The reference to Section 2522(a)(2) of the  
25 Internal Revenue Code, relating to the computation of  
26 taxable gifts or Internal Revenue Code Section 2055,  
27 relating to transfers for public, charitable, and religious  
28 uses, shall not apply.

29 SEC. 69. Section 23704.5 of the Revenue and Taxation  
30 Code is repealed.

31 ~~23704.5. (a) In the case of an organization to which~~  
32 ~~this section applies, exemption from taxation under~~  
33 ~~Section 23701 shall be denied because a substantial part~~  
34 ~~of the activities of that organization consists of carrying~~  
35 ~~on propaganda, or otherwise attempting to influence~~  
36 ~~legislation, but only if that organization normally —~~

37 ~~(1) Makes lobbying expenditures in excess of the~~  
38 ~~lobbying ceiling amount for that organization for each~~  
39 ~~taxable year, or~~



1 ~~(2) Makes grassroots expenditures in excess of the~~  
2 ~~grassroots ceiling amount for that organization for each~~  
3 ~~taxable year.~~

4 ~~(b) For purposes of this section—~~

5 ~~(1) The term “lobbying expenditures” means~~  
6 ~~expenditures for the purpose of influencing legislation (as~~  
7 ~~defined in subdivision (d) of Section 23740).~~

8 ~~(2) The lobbying ceiling amount for any organization~~  
9 ~~for any taxable year is 150 percent of the lobbying~~  
10 ~~nontaxable amount for the organization for that taxable~~  
11 ~~year, determined under Section 23740.~~

12 ~~(3) The term “grassroots expenditures” means~~  
13 ~~expenditures for the purpose of influencing legislation (as~~  
14 ~~defined in subdivision (d) of Section 23740 without~~  
15 ~~regard to subparagraph (B) of paragraph (1) thereof).~~

16 ~~(4) The grassroots ceiling amount for any organization~~  
17 ~~for any taxable year is 150 percent of the grassroots~~  
18 ~~nontaxable amount for that organization for that taxable~~  
19 ~~year, determined under Section 23740.~~

20 ~~(c) This section shall apply to any organization which~~  
21 ~~has elected (in that manner and at that time as the~~  
22 ~~Franchise Tax Board may prescribe) to have the~~  
23 ~~provisions of this section apply to that organization and~~  
24 ~~which, for the taxable year which includes the date the~~  
25 ~~election is made, is described in Section 23701d and—~~

26 ~~(1) Is described in subdivision (d), and~~

27 ~~(2) Is not a disqualified organization under subdivision~~  
28 ~~(e).~~

29 ~~(d) An organization is described in this paragraph if it~~  
30 ~~is described in—~~

31 ~~(1) Section 170(b)(1)(A)(ii) of the Internal Revenue~~  
32 ~~Code (relating to educational institutions),~~

33 ~~(2) Section 170(b)(1)(A)(iii) of the Internal Revenue~~  
34 ~~Code (relating to hospitals and medical research~~  
35 ~~organizations),~~

36 ~~(3) Section 170(b)(1)(A)(iv) of the Internal Revenue~~  
37 ~~Code (relating to organizations supporting government~~  
38 ~~schools),~~



1 ~~(4) Section 170(b)(1)(A)(vi) of the Internal Revenue~~  
2 ~~Code (relating to organizations publicly supported by~~  
3 ~~charitable contributions),~~

4 ~~(5) Section 509(a)(2) of the Internal Revenue Code~~  
5 ~~(relating to organizations publicly supported by~~  
6 ~~admissions, sales, etc.), or~~

7 ~~(6) Section 509(a)(3) of the Internal Revenue Code~~  
8 ~~(relating to organizations supporting certain types of~~  
9 ~~public charities) except that for purposes of this~~  
10 ~~paragraph, Section 509(a)(3) of the Internal Revenue~~  
11 ~~Code shall be applied without regard to the last sentence~~  
12 ~~of Section 509(a) of the Internal Revenue Code.~~

13 ~~(e) For purposes of subdivision (e) an organization is~~  
14 ~~a disqualified organization if it is —~~

15 ~~(1) Described in Section 170(b)(1)(A)(i) of the~~  
16 ~~Internal Revenue Code (relating to churches),~~

17 ~~(2) An integrated auxiliary of a church or of a~~  
18 ~~convention or association of churches, or~~

19 ~~(3) A member of an affiliated group of organizations~~  
20 ~~(within the meaning of paragraph (2) of subdivision (f)~~  
21 ~~of Section 23740) if one or more members of that group~~  
22 ~~is described in paragraphs (1) and (2).~~

23 ~~(f) An election by an organization under this section~~  
24 ~~shall be effective for all taxable years of those~~  
25 ~~organizations which —~~

26 ~~(1) End after the date the election is made, and~~

27 ~~(2) Begin before the date the election is revoked by~~  
28 ~~that organization (under regulations prescribed by the~~  
29 ~~Franchise Tax Board).~~

30 ~~(g) With respect to any organization for a taxable year~~  
31 ~~for which —~~

32 ~~(1) That organization is a disqualified organization~~  
33 ~~(within the meaning of subdivision (e)), or~~

34 ~~(2) An election under this section is not in effect for~~  
35 ~~that organization,~~

36 ~~nothing in this section or in Section 23740 shall be~~  
37 ~~construed to affect the interpretation of the phrase, “no~~  
38 ~~substantial part of the activities of which is carrying on~~  
39 ~~propaganda, or otherwise attempting, to influence~~  
40 ~~legislation, under Section 23701d.”~~



1 ~~(h) For rules regarding affiliated organizations see~~  
2 ~~subdivision (f) of Section 23740.~~

3 SEC. 70. Section 23704.5 is added to the Revenue and  
4 Taxation Code, to read:

5 23704.5. Section 501(h) of the Internal Revenue  
6 Code, relating to expenditures by public charities  
7 engaged in activities to influence legislation, shall apply,  
8 except as otherwise provided.

9 (a) The reference to Section 501(a) of the Internal  
10 Revenue Code, relating to exemption from taxation, shall  
11 be modified to refer to Section 23701.

12 (b) The reference to Section 501(c)(3) of the Internal  
13 Revenue Code, relating to charitable organizations, shall  
14 be modified to refer to Section 23701d.

15 SEC. 71. Section 23704.6 of the Revenue and Taxation  
16 Code is repealed.

17 ~~23704.6. (a) An organization which—~~

18 ~~(1) Was exempt (or was determined by the Franchise~~  
19 ~~Tax Board to be exempt) from taxation under Section~~  
20 ~~23701 by reason of being an organization described in~~  
21 ~~Section 23701d, and~~

22 ~~(2) Is not an organization described in Section 23701d:~~

23 ~~(A) By reason of carrying on propaganda, or otherwise~~  
24 ~~attempting, to influence legislation, or~~

25 ~~(B) By reason of participating in, or intervening in,~~  
26 ~~any political campaign on behalf of (or in opposition to)~~  
27 ~~any candidate for public office, shall not at any time~~  
28 ~~thereafter be treated as an organization described in~~  
29 ~~Section 23701f.~~

30 ~~(b) The Franchise Tax Board shall prescribe those~~  
31 ~~regulations as may be necessary or appropriate to prevent~~  
32 ~~the avoidance of subdivision (a), including regulations~~  
33 ~~relating to a direct or indirect transfer of all or part of the~~  
34 ~~assets of an organization to an organization controlled~~  
35 ~~(directly or indirectly) by the same person or persons~~  
36 ~~who control the transferor organization.~~

37 ~~(c) Subdivision (a) shall not apply to any organization~~  
38 ~~which is a disqualified organization within the meaning~~  
39 ~~of subdivision (c) of Section 23704.5 (relating to churches,~~  
40 ~~etc.) for the taxable year immediately preceding the first~~



1 ~~taxable year for which that organization is described in~~  
2 ~~paragraph (2) of subdivision (a).~~

3 SEC. 72. Section 23704.6 is added to the Revenue and  
4 Taxation Code, to read:

5 23704.6. Section 504 of the Internal Revenue Code,  
6 relating to status after organization ceases to qualify for  
7 exemption under Section 501(c)(3) because of  
8 substantial lobbying or because of political activities, shall  
9 apply, except as otherwise provided.

10 (a) The reference to Section 501(a) of the Internal  
11 Revenue Code, relating to exemption from taxation, shall  
12 be modified to refer to Section 23701.

13 (b) The reference to Section 501a(c)(3) of the  
14 Internal Revenue Code, relating to charitable  
15 organizations, shall be modified to refer to Section  
16 23701d.

17 (c) The reference to Section 501(c)(4) of the Internal  
18 Revenue Code, relating to civic leagues, social welfare  
19 organizations, and local associations of employees, shall  
20 be modified to refer to Section 23701f.

21 SEC. 73. Section 23740 of the Revenue and Taxation  
22 Code is repealed.

23 ~~23740. (a) This section applies to any organization~~  
24 ~~with respect to which an election under Section 23704.5~~  
25 ~~(relating to lobbying expenditures by public charities) is~~  
26 ~~in effect for the taxable year.~~

27 ~~(b) For purposes of this section, the term “excess~~  
28 ~~lobbying expenditures” means for a taxable year, the~~  
29 ~~greater of—~~

30 ~~(1) The amount by which the lobbying expenditures~~  
31 ~~made by the organization during the taxable year exceed~~  
32 ~~the lobbying nontaxable amount for the organization for~~  
33 ~~that taxable year, or~~

34 ~~(2) The amount by which the grassroots expenditures~~  
35 ~~made by the organization during the taxable year exceed~~  
36 ~~the grassroots nontaxable amount for that organization~~  
37 ~~for such taxable year.~~

38 ~~(c) For purposes of this section—~~



1 ~~(1) The term “lobbying expenditures” means~~  
2 ~~expenditures for the purpose of influencing legislation (as~~  
3 ~~defined in subdivision (d)):~~

4 ~~(2) The lobbying nontaxable amount for any~~  
5 ~~organization for any taxable year is the lesser of (A) one~~  
6 ~~million dollars (\$1,000,000) or (B) the amount~~  
7 ~~determined under the following table:~~

<del>If the exempt purpose</del> <del>expenditures are—</del>	<del>The lobbying nontaxable</del> <del>amount is—</del>
<del>Not over \$500,000 .....</del>	<del>20 percent of the exempt purpose</del> <del>expenditures.</del>
<del>Over \$500,000 but not over</del> <del>\$1,000,000 .....</del>	<del>\$100,000, plus 15 percent of the ex-</del> <del>cess of the exempt purpose ex-</del> <del>penditures over \$500,000.</del>
<del>Over \$1,000,000 but not over</del> <del>\$1,500,000 .....</del>	<del>\$175,000, plus 10 percent of the ex-</del> <del>cess of the exempt purpose ex-</del> <del>penditures over \$1,000,000.</del>
<del>Over \$1,500,000 .....</del>	<del>\$225,000, plus 5 percent of the ex-</del> <del>cess of the exempt purpose ex-</del> <del>penditures over \$1,500,000.</del>

23 ~~(3) The term “grassroots expenditures” means~~  
24 ~~expenditures for the purpose of influencing legislation (as~~  
25 ~~defined in subdivision (d) without regard to~~  
26 ~~subparagraph (B) of paragraph (1) thereof).~~

27 ~~(4) The grassroots nontaxable amount for any~~  
28 ~~organization for any taxable year is 25 percent of the~~  
29 ~~lobbying nontaxable amount (determined under~~  
30 ~~paragraph (2) for the organization for that taxable year.~~

31 ~~(d) (1) Except as otherwise provided in paragraph~~  
32 ~~(2), for purposes of this section, the term “influencing~~  
33 ~~legislation” means—~~

34 ~~(A) Any attempt to influence any legislation through~~  
35 ~~an attempt to affect the opinions of the general public or~~  
36 ~~any segment thereof, and~~

37 ~~(B) Any attempt to influence any legislation through~~  
38 ~~communication with any member or employee of a~~  
39 ~~legislative body, or with any government official or~~



1 ~~employee who may participate in the formulation of the~~  
2 ~~legislation.~~

3 ~~(2) For purposes of this section, the term “influencing~~  
4 ~~legislation,” with respect to an organization, does not~~  
5 ~~include—~~

6 ~~(A) Making available the results of nonpartisan~~  
7 ~~analysis, study, or research;~~

8 ~~(B) Providing of technical advice or assistance (where~~  
9 ~~such advice would otherwise constitute the influencing of~~  
10 ~~legislation) to a governmental body or to a committee or~~  
11 ~~other subdivision thereof in response to a written request~~  
12 ~~by that body or subdivision, as the case may be;~~

13 ~~(C) Appearances before, or communications to, any~~  
14 ~~legislative body with respect to a possible decision of that~~  
15 ~~body that might affect the existence of the organization,~~  
16 ~~its powers and duties, tax-exempt status, or the deduction~~  
17 ~~of contributions to the organization;~~

18 ~~(D) Communications between the organization and~~  
19 ~~its bona fide members with respect to legislation or~~  
20 ~~proposed legislation of direct interest to the organization~~  
21 ~~and such members, other than communications~~  
22 ~~described in paragraph (3); and~~

23 ~~(E) Any communication with a government official or~~  
24 ~~employee, other than—~~

25 ~~(i) A communication with a member or employee of~~  
26 ~~a legislative body (where that communication would~~  
27 ~~otherwise constitute the influencing of legislation), or~~

28 ~~(ii) A communication, the principal purpose of which~~  
29 ~~is to influence legislation.~~

30 ~~(3) (A) A communication between an organization~~  
31 ~~and any bona fide member of the organization to directly~~  
32 ~~encourage that member to communicate as provided in~~  
33 ~~subparagraph (B) of paragraph (1) shall be treated as a~~  
34 ~~communication described in subparagraph (B) of~~  
35 ~~paragraph (1).~~

36 ~~(B) A communication between an organization and~~  
37 ~~any bona fide member of the organization to directly~~  
38 ~~encourage that member to urge persons other than~~  
39 ~~members to communicate as provided in either~~  
40 ~~subparagraph (A) or subparagraph (B) of paragraph (1)~~



1 shall be treated as a communication described in  
2 subparagraph (A) of paragraph (1).

3 (e) For purposes of this section —

4 (1) (A) The term “exempt purpose expenditures”  
5 means, with respect to any organization for any taxable  
6 year, the total of the amounts paid or incurred by the  
7 organization to accomplish purposes described in  
8 paragraph (2) of subdivision (b) of Section 24359  
9 (relating to religious, charitable, educational, etc.,  
10 purposes).

11 (B) The term “exempt purpose expenditures”  
12 includes —

13 (i) Administrative expenses paid or incurred for  
14 purposes described in paragraph (2) of subdivision (b) of  
15 Section 24359, and

16 (ii) Amounts paid or incurred for the purpose of  
17 influencing legislation (whether or not for purposes  
18 described in paragraph (2) of subdivision (b) of Section  
19 24359).

20 (C) The term “exempt purpose expenditures” does  
21 not include amounts paid or incurred to or for —

22 (i) A separate fundraising unit of the organization, or

23 (ii) One or more other organizations, if the amounts  
24 are paid or incurred primarily for fundraising.

25 (2) The term “legislation” includes action with respect  
26 to acts, bills, resolutions, or similar items by the Congress,  
27 any state legislature, any local council, or similar  
28 governing body or by the public in a referendum,  
29 initiative, constitutional amendment, or similar  
30 procedure.

31 (3) The term “action” is limited to the introduction,  
32 amendment, enactment, defeat, or repeal of acts, bills,  
33 resolutions, or similar items.

34 (4) In computing expenditures paid or incurred for  
35 the purpose of influencing legislation (within the  
36 meaning of paragraph (1) or (2) of subdivision (b)) or  
37 exempt purpose expenditures (as defined in paragraph  
38 (1)), amounts properly chargeable to capital account  
39 shall not be taken into account. There shall be taken into  
40 account a reasonable allowance for exhaustion, wear and



1 ~~tear, obsolescence or amortization. The allowance shall~~  
2 ~~be computed only on the basis of the straight line method~~  
3 ~~of depreciation. For purposes of this section, a~~  
4 ~~determination of whether an amount is properly~~  
5 ~~chargeable to capital account shall be made on the basis~~  
6 ~~of the principles that apply under this part to amounts~~  
7 ~~which are paid or incurred in a trade or business.~~

8 ~~(f) (1) Except as otherwise provided in paragraph~~  
9 ~~(4), if for a taxable year two or more organizations~~  
10 ~~described in Section 23701d are members of an affiliated~~  
11 ~~group of organizations as defined in paragraph (2), and~~  
12 ~~an election under Section 23704.5 is effective for at least~~  
13 ~~that organization for that year, then—~~

14 ~~(A) The determination as to whether excess lobbying~~  
15 ~~expenditures have been made and the determination as~~  
16 ~~to whether the expenditure limits of subdivision (a) of~~  
17 ~~Section 23704.5 have been exceeded shall be made as~~  
18 ~~though the affiliated group is one organization.~~

19 ~~(B) If the group has excess lobbying expenditures,~~  
20 ~~each organization as to which an election under Section~~  
21 ~~23704.5 is effective for that year shall be treated as an~~  
22 ~~organization that has excess lobbying expenditures in an~~  
23 ~~amount which equals the organization's proportionate~~  
24 ~~share of the group's excess lobbying expenditures.~~

25 ~~(C) If the expenditure limits of subdivision (a) of~~  
26 ~~Section 23704.5 are exceeded, each organization as to~~  
27 ~~which an election under Section 23704.5 is effective for~~  
28 ~~that year shall be treated as an organization that is not~~  
29 ~~described in Section 23701d by reason of the application~~  
30 ~~of Section 23704.5, and~~

31 ~~(D) Subparagraphs (C) and (D) of paragraph (2) of~~  
32 ~~subdivision (d), paragraph (3) of subdivision (d), and~~  
33 ~~clause (i) of subparagraph (C) of paragraph (1) of~~  
34 ~~subdivision (e) shall be applied as if the affiliated group~~  
35 ~~were one organization.~~

36 ~~(2) For purposes of paragraph (1), two organizations~~  
37 ~~are members of an affiliated group of organizations but~~  
38 ~~only if—~~



1 ~~(A) The governing instrument of one organization~~  
2 ~~requires it to be bound by decisions of the other~~  
3 ~~organization on legislative issues, or~~

4 ~~(B) The governing board of one organization includes~~  
5 ~~persons who—~~

6 ~~(i) Are specifically designated representatives of~~  
7 ~~another organization or are members of the governing~~  
8 ~~board, officers, or paid executive staff members of the~~  
9 ~~other organization, and~~

10 ~~(ii) By aggregating their votes, have sufficient voting~~  
11 ~~power to cause or prevent action on legislative issues by~~  
12 ~~the first organization.~~

13 ~~(3) If members of an affiliated group of organizations~~  
14 ~~have different taxable years, their expenditures shall be~~  
15 ~~computed for purposes of this section in a manner to be~~  
16 ~~prescribed by regulations promulgated by the Franchise~~  
17 ~~Tax Board.~~

18 ~~(4) If two or more organizations are members of an~~  
19 ~~affiliated group of organizations (as defined in paragraph~~  
20 ~~(2) without regard to subparagraph (B) thereof), no two~~  
21 ~~members of the affiliated group are affiliated (as defined~~  
22 ~~in paragraph (2) without regard to subparagraph (A)~~  
23 ~~thereof), and the governing instrument of no~~  
24 ~~organization requires it to be bound by decisions of any~~  
25 ~~of the other organizations on legislative issues other than~~  
26 ~~as to action with respect to acts, bills, resolutions, or~~  
27 ~~similar items by the Congress or State Legislature, then—~~

28 ~~(A) In the case of any organization whose decisions~~  
29 ~~bind one or more members of the affiliated group,~~  
30 ~~directly or indirectly, the determination as to whether~~  
31 ~~the organization has paid or incurred excess lobbying,~~  
32 ~~expenditures and the determination as to whether the~~  
33 ~~organization has exceeded the expenditure limits of~~  
34 ~~subdivision (a) of Section 23704.5 shall be made as though~~  
35 ~~the organization has paid or incurred those amounts paid~~  
36 ~~or incurred by the members of the affiliated group to~~  
37 ~~influence legislation with respect to acts, bills, resolutions,~~  
38 ~~or similar items by the Congress or State Legislature, and~~

39 ~~(B) In the case of any organization to which~~  
40 ~~subparagraph (A) does not apply, but which is a member~~



~~1 of the affiliated group, the determination as to whether  
2 the organization has paid or incurred excess lobbying  
3 expenditures and the determination as to whether the  
4 organization has exceeded the expenditure limits of  
5 subdivision (a) of Section 23704.5 shall be made as though  
6 the organization is not a member of the affiliated group.~~

7 SEC. 74. Section 23740 is added to the Revenue and  
8 Taxation Code, to read:

9 23740. Section 4911 of the Internal Revenue Code,  
10 relating to tax on excess expenditures to influence  
11 legislation, shall apply, except as otherwise provided.

12 (a) Section 4911(a)(1) of the Internal Revenue Code  
13 shall not apply.

14 (b) Section 4911(f)(4)(A) of the Internal Revenue  
15 Code shall include efforts to influence legislation with  
16 respect to acts, bills, resolutions, or similar items by the  
17 state Legislature.

18 SEC. 75. Section 23772 of the Revenue and Taxation  
19 Code is amended to read:

20 23772. (a) For the purposes of this part—

21 (1) Except as provided in paragraph (2) every  
22 organization exempt from taxation under Section 23701  
23 and every trust treated as a private foundation because of  
24 Section 4947(a)(1) of the Internal Revenue Code shall  
25 file an annual return, stating specifically the items of gross  
26 income, receipts, and disbursements, and such other  
27 information for the purpose of carrying out the laws  
28 under this part as the Franchise Tax Board may by rules  
29 or regulations prescribe, and shall keep such records,  
30 render under oath such statements, make such other  
31 returns, and comply with such rules and regulations as the  
32 Franchise Tax Board may from time to time prescribe.  
33 The return shall be filed on or before the 15th day of the  
34 fifth full calendar month following the close of the income  
35 year.

36 (2) Exceptions from filing—

37 (A) Mandatory exceptions—Paragraph (1) shall not  
38 apply to—

39 (i) Churches, their integrated auxiliaries, and  
40 conventions or association of churches,



1 (ii) Any organization (other than a private foundation  
2 as defined in Section 23709), the gross receipts of which  
3 in each taxable year are normally not more than  
4 twenty-five thousand dollars (\$25,000), or

5 (iii) The exclusively religious activities of any religious  
6 order,

7 (B) Discretionary exceptions—The Franchise Tax  
8 Board may permit the filing of a simplified return for  
9 organizations based on either gross receipts or total assets  
10 or both gross receipts and total assets, or may permit the  
11 filing of an information statement (without fee), or may  
12 permit the filing of a group return for incorporated or  
13 unincorporated branches of a state or national  
14 organization where it determines that an information  
15 return is not necessary to the efficient administration of  
16 this part.

17 (3) An organization that is required to file an annual  
18 information return shall pay a filing fee of ten dollars  
19 (\$10) on or before the due date for filing the annual  
20 information return (determined with regard to any  
21 extension of time for filing the return) required by this  
22 section. In case of failure to pay the fee on or before such  
23 due date unless it is shown that such failure is due to  
24 reasonable cause, the filing fee shall be twenty-five dollars  
25 (\$25). All collection remedies provided in Article 5  
26 (commencing with Section 18661) of Chapter 2 of Part  
27 10.2 shall be applicable to collection of the filing fee.  
28 However, the filing fee shall not apply to the organization  
29 described in paragraph (4).

30 (4) Paragraph (3) shall not apply to: (A) a religious  
31 organization exempt under Section 23701d; (B) an  
32 educational organization exempt under Section 23701d,  
33 if such organization normally maintains a regular faculty  
34 and curriculum and normally has a regularly organized  
35 body of pupils or students in attendance at the place  
36 where its educational activities are regularly carried on;  
37 (C) a charitable organization, or an organization for the  
38 prevention of cruelty to children or animals, exempt  
39 under Section 23701d, if such organization is supported,  
40 in whole or in part, by funds contributed by the United



1 States or any state or political subdivision thereof, or is  
2 primarily supported by contributions of the general  
3 public; (D) an organization exempt under Section  
4 23701d, if such organization is operated, supervised, or  
5 controlled by or in connection with a religious  
6 organization described in subparagraph (A).

7 (b) Every organization described in Section 23701d  
8 which is subject to the requirements of subdivision (a)  
9 shall furnish annually information, at such time and in  
10 such manner as the Franchise Tax Board may by rules or  
11 regulations prescribe, setting forth—

12 (1) Its gross income for the year,

13 (2) Its expenses attributable to such income and  
14 incurred within the year,

15 (3) Its disbursements within the year for the purposes  
16 for which it is exempt,

17 (4) A balance sheet showing its assets, liabilities, and  
18 net worth as of the beginning of such year,

19 (5) The total of the contributions and gifts received by  
20 it during the year, and the names and addresses of all  
21 substantial contributors,

22 (6) The names and addresses of its foundation  
23 manager (within the meaning of Section 4946 of the  
24 Internal Revenue Code) and highly compensated  
25 employees,

26 (7) The compensation and other payments made  
27 during the year to each individual described in paragraph  
28 (6),

29 (8) In the case of an organization with respect to  
30 which an election under Section 23704.5 is effective for  
31 the taxable year, the following amounts for such  
32 organization for such taxable year:

33 (A) The lobbying expenditures (as defined in Section  
34 ~~23740(e)(1)~~ 4911(c)(1) of the Internal Revenue Code).

35 (B) The lobbying nontaxable amount (as defined in  
36 Section ~~23740(e)(2)~~ 4911(c)(2) of the Internal Revenue  
37 Code).

38 (C) The grassroots expenditures (as defined in Section  
39 ~~23740(e)(3)~~ 4911(c)(3) of the Internal Revenue Code).



1 (D) The grassroots nontaxable amount (as defined in  
2 Section ~~23740(e)(4)~~ *4911(c)(4) of the Internal Revenue*  
3 *Code*). For purposes of this paragraph, if Section 23740(f)  
4 applies to the organization for the taxable year, the  
5 organization shall furnish the amounts with respect to the  
6 affiliated group as well as with respect to the  
7 organization.

8 (9) Such other information with respect to direct or  
9 indirect transfers to, and other direct or indirect  
10 transactions and relationships with, other organizations  
11 described in Sections 23701a to 23701w, inclusive (other  
12 than Sections 23701d, 23701k, and 23701t), as the  
13 Franchise Tax Board may require to prevent either of the  
14 following:

15 (A) Diversion of funds from the organization's exempt  
16 purpose.

17 (B) Misallocation of revenue or expense, and

18 (10) Any other relevant information as the Franchise  
19 Tax Board may prescribe.

20 (c) In addition to the above annual return any  
21 organization which is required to file an annual report  
22 under Section 6056 of the Internal Revenue Code will  
23 furnish a copy of the report to the Franchise Tax Board  
24 at the time the annual return is due.

25 (d) For the purposes of this part—

26 (1) In the case of a failure to file a return required  
27 under this section on the date and in the manner  
28 prescribed therefor (determined with regard to any  
29 extension of time for filing), unless it is shown that such  
30 failure is due to reasonable cause, there shall be paid (on  
31 notice and demand by the Franchise Tax Board and in the  
32 same manner as tax) by the exempt organization or trust  
33 failing so to file, five dollars (\$5) for each month or part  
34 thereof during which such failure continues, but the total  
35 amount imposed hereunder on any organization for  
36 failure to file any return shall not exceed forty dollars  
37 (\$40).

38 (2) The Franchise Tax Board may make written  
39 demand upon a private foundation failing to file under  
40 paragraph (1) of this subdivision or subdivision (c)



1 specifying therein a reasonable future date by which such  
2 filing shall be made, and if such filing is not made on or  
3 before such date, and unless it is shown that failure so to  
4 file is due to reasonable cause, there shall be paid (on  
5 notice and demand by the Franchise Tax Board and in the  
6 same manner as tax) by the person failing so to file, in  
7 addition to the penalty prescribed in paragraph (1), a  
8 penalty of five dollars (\$5) each month or part thereof  
9 after the expiration of the time specified in the written  
10 demand during which such failure continues, but the  
11 total amount imposed hereunder on all persons for such  
12 failure to file shall not exceed twenty-five dollars (\$25).  
13 If more than one person is liable under this paragraph for  
14 a failure to file, all such persons shall be jointly and  
15 severally liable with respect to such failure. The term  
16 “person” as used herein means any officer, director,  
17 trustee, employee, member, or other individual who is  
18 under a duty to perform the act in respect of which the  
19 violation occurs.

20 (e) The reporting requirements and penalties shall be  
21 applicable for income years beginning after December  
22 31, 1970, except that the provisions of subparagraph (B)  
23 of paragraph (2) of subdivision (a) shall apply to income  
24 years ending after December 31, 1970.

25 SEC. 76. Section 23802 of the Revenue and Taxation  
26 Code is amended to read:

27 23802. (a) Section 1363(a) of the Internal Revenue  
28 Code, relating to the taxability of an “S corporation,” shall  
29 not be applicable.

30 (b) Corporations qualifying under this chapter shall  
31 continue to be subject to the taxes imposed under  
32 Chapter 2 (commencing with Section 23101) and  
33 Chapter 3 (commencing with Section 23501), except as  
34 follows:

35 (1) The tax imposed under Section 23151 or 23501 shall  
36 be imposed at a rate of  $1\frac{1}{2}$  percent rather than the rate  
37 specified in those sections.

38 (2) In the case of an “S corporation” which is also a  
39 financial corporation, the rate of tax specified in  
40 paragraph (1) shall be increased by the excess of the rate



1 imposed under Section 23183 over the rate imposed  
2 under Section 23151.

3 (c) An “S corporation” shall be subject to the  
4 minimum franchise tax imposed under Section 23153.

5 (d) (1) For purposes of subdivision (b), an “S  
6 corporation” shall be allowed a deduction under Section  
7 24416 or 24416.1 (relating to net operating loss  
8 deductions), but only with respect to losses incurred  
9 during periods in which the corporation had in effect a  
10 valid election to be treated as an “S corporation” for  
11 purposes of this part.

12 (2) Section 1371(b) of the Internal Revenue Code,  
13 relating to denial of carryovers between “C years” and “S  
14 years,” shall apply for purposes of the tax imposed under  
15 subdivision (b), except as provided in paragraph (1).

16 (3) The provisions of this subdivision shall not affect  
17 the amount of any item of income or loss computed in  
18 accordance with the provisions of Section 1366 of the  
19 Internal Revenue Code, relating to passthrough items to  
20 shareholders.

21 (4) For purposes of subdivision (b) of Section 17276,  
22 relating to limitations on loss carryovers, losses passed  
23 through to shareholders of an “S corporation,” to the  
24 extent otherwise allowable without application of that  
25 subdivision, shall be fully included in the net operating  
26 loss of that shareholder and then that subdivision shall be  
27 applied to the entire net operating loss.

28 (e) For purposes of computing the taxes specified in  
29 subdivision (b), an “S corporation” shall be allowed a  
30 deduction from income for built-in gains and passive  
31 investment income for which a tax has been imposed  
32 under this part in accordance with the provisions of  
33 Section 1374 of the Internal Revenue Code, relating to tax  
34 imposed on certain built-in gains, or Section 1375 of the  
35 Internal Revenue Code, relating to tax imposed on  
36 passive investment income.

37 (f) For purposes of computing taxes imposed under  
38 this part, as provided in subdivision (b)—

39 (1) An “S corporation” shall compute its deductions  
40 for amortization and depreciation in accordance with the



1 provisions of Part 10 (commencing with Section 17001) of  
2 Division 2.

3 (2) The provisions of Section 465 of the Internal  
4 Revenue Code, relating to limitation of deductions to the  
5 amount at risk, shall be applied in the same manner as in  
6 the case of an individual.

7 (3) (A) The provisions of Section 469 of the Internal  
8 Revenue Code, relating to limitations on passive activity  
9 losses and credits, shall be applied in the same manner as  
10 in the case of an individual. For purposes of the tax  
11 imposed under Section 23151 or 23501, as modified by this  
12 section, material participation shall be determined in  
13 accordance with Section 469(h) of the Internal Revenue  
14 Code, relating to certain closely held “C corporations”  
15 and personal service corporations.

16 (B) For purposes of this paragraph, the “adjusted gross  
17 income” of the “S corporation” shall be equal to its “net  
18 income,” as determined under Section 24341 with the  
19 modifications required by this subdivision, except that no  
20 deduction shall be allowed for contributions allowed by  
21 Section 24357.

22 (4) The exclusion provided under Section 18152.5 shall  
23 not be allowed to an “S corporation.”

24 (g) The provisions of Section 1363(d) of the Internal  
25 Revenue Code, relating to recapture of LIFO benefits,  
26 shall be modified for purposes of this part to refer to  
27 Section ~~19102~~ 19101 in lieu of Section 6601 of the Internal  
28 Revenue Code.

29 SEC. 77. Section 23810 of the Revenue and Taxation  
30 Code is repealed.

31 ~~23810. In the case of an “S corporation” having~~  
32 ~~nonresident shareholders, the shareholders may elect to~~  
33 ~~apply the provisions of Section 18535 (relating to a group~~  
34 ~~return for nonresident partners of a partnership).~~

