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**AB-1031 Personal income taxes: voluntary contributions: Rare and Endangered Species Preservation Program: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund. (2017-2018)**

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**Assembly Bill No. 1031**

**CHAPTER 504**

An act to add Article 5 (commencing with Section 1773) to Chapter 7.5 of Division 2 of the Fish and Game Code, and to amend Sections 18741, 18742, and 18744 of, and to add and repeal Article 5.2 (commencing with Section 18749) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[ Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1031, Waldron. Personal income taxes: voluntary contributions: Rare and Endangered Species Preservation Program: Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

Existing law allows an individual taxpayer to contribute amounts in excess of his or her personal income tax liability for the support of specified funds and accounts, including among others, to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. Existing law authorizes contributions to be made to this account pursuant to these provisions until January 1, 2018, or until an earlier date if specified minimum contributions are not received. Existing law requires all moneys contributed to this account pursuant to these provisions to be allocated, upon appropriation by the Legislature, to the Franchise Tax Board and the Controller for the costs of collection and administration of the funds, and to the Department of Fish and Wildlife for specified purposes.

This bill would authorize contributions to be made to this account pursuant to these provisions until January 1, 2025, or until an earlier date if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount of \$250,000. The bill would instead require moneys contributed to this account pursuant to these provisions to be continuously appropriated and allocated for the above-specified purposes.

This bill would also allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund, which would be created by this bill. The bill would require the Franchise Tax Board to revise the tax return form to include a space for the designation of contributions to the fund when another voluntary designation is removed from the form or there is space, whichever occurs first.

The bill would require money contributed to the fund to be continuously appropriated and allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the Department of Fish and Wildlife to establish a competitive grant program for the purposes of the recovery and rehabilitation of injured, sick, or orphaned wildlife, and conservation education, as specified. The bill would authorize a maximum of 5% of the funds allocated to the Department of Fish and Wildlife to be used by the department to defray administrative expenses.

The bill would provide that these provisions would remain in effect only until January 1 of the 7th taxable year following the first appearance of the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund on the tax return, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount of \$250,000, in which case these provisions would be repealed on December 1 of that year.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Article 5 (commencing with Section 1773) is added to Chapter 7.5 of Division 2 of the Fish and Game Code, to read:

### **Article 5. Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund**

**1773.** The department shall maintain the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund established pursuant to Section 18749.1 of the Revenue and Taxation Code.

**1773.1.** (a) The funds deposited in the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund pursuant to Article 5.2 (commencing with Section 18749) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code are for the support of a competitive grant program to be established by the department for the purposes of the recovery and rehabilitation of injured, sick, or orphaned wildlife, and conservation education.

(b) A maximum of 5 percent of the funds allocated to the department may be used to defray the administrative expenses associated with administering the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

**1773.2.** To be eligible for grant funding from the competitive grant program established pursuant to Section 1773.1, an applicant shall meet all of the following criteria:

(a) The applicant shall provide proof that it is a nonprofit organization that operates a wildlife rehabilitation facility permitted pursuant to Section 679 of Title 14 of the California Code of Regulations.

(b) The applicant shall be in compliance with all conditions of its Wildlife Rehabilitation Memorandum of Understanding.

(c) The applicant shall maintain active participation in the wildlife rehabilitation medical database.

**SEC. 2.** Section 18741 of the Revenue and Taxation Code is amended to read:

**18741.** (a) Any individual may designate on the tax return, under the space labeled "Rare and Endangered Species Preservation Voluntary Tax Contribution Program," that a contribution in excess of the tax liability, if any, be made to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account established in the Fish and Game Preservation Fund pursuant to Section 1770 of the Fish and Game Code.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the original return for that taxable year, and once made shall be irrevocable.

(d) The Franchise Tax Board shall revise the form of the return to include a space labeled "Rare and Endangered Species Preservation Voluntary Tax Contribution Program" to allow for the designation permitted under subdivision (a).

(e) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

**SEC. 3.** Section 18742 of the Revenue and Taxation Code is amended to read:

**18742.** (a) The Franchise Tax Board shall notify the Controller of both the amount of moneys paid by taxpayers in excess of their tax liability and the amount of refund moneys that taxpayers have designated pursuant to Section 18741 to be transferred to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. The Controller shall transfer from the Personal Income Tax Fund to that account, an amount not in excess of the sum of the amounts reported to the Controller by the Franchise Tax Board that have been designated by individuals pursuant to Section 18741 for payment into that account.

(b) Notwithstanding Section 13340 of the Government Code, all moneys transferred to the account shall be continuously appropriated and allocated as follows:

(1) To the Franchise Tax Board and the Controller for the reimbursement of all actual and direct costs incurred by the Franchise Tax Board and the Controller in connection with the collection and administration of funds under this article.

(2) To the Department of Fish and Wildlife for the purposes specified in Section 1771 of the Fish and Game Code.

(c) The Department of Fish and Wildlife shall comply with the Internet Web site reporting requirements described in Section 18873.

**SEC. 4.** Section 18744 of the Revenue and Taxation Code is amended to read:

**18744.** (a) Except as otherwise provided in subdivision (b), this article shall remain operative only until January 1, 2025, and as of December 1 of that year is repealed.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the Rare and Endangered Species Preservation Voluntary Tax Contribution Program appears on a tax return, the Franchise Tax Board shall determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount for the calendar year. The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is inoperative with respect to taxable years beginning on or after January 1 of that calendar year, and shall be repealed on December 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000).

**SEC. 5.** Article 5.2 (commencing with Section 18749) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

**Article 5.2. Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund**

**18749.** (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund, established by Section 18749.1. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the original return for that taxable year, and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. If no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) When another voluntary contribution designation is removed from the tax return, or as soon as space is available, whichever occurs first, the Franchise Tax Board shall revise the form of the tax return to include a space labeled the "Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund" to allow for the designation provided. The form shall include in the instruction information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to support the recovery and rehabilitation of injured, sick, or orphaned native wildlife, and conservation education.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

**18749.1.** There is in the State Treasury the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund to receive contributions made pursuant to Section 18749. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18749 to be transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund. The Controller shall transfer from the Personal Income Tax Fund to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18749 for payment into that fund.

**18749.2.** (a) Notwithstanding Section 13340 of the Government Code, all moneys transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund shall be continuously appropriated and allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) The revenues remaining, after allocation pursuant to paragraph (1), to the Department of Fish and Wildlife for the purposes specified in Article 5 (commencing with Section 1773) of Chapter 7.5 of Division 2 of the Fish and Game Code.

(b) The Department of Fish and Wildlife shall comply with the Internet Web site reporting requirements described in Section 18873.

**18749.3.** (a) Except as otherwise provided in subdivision (b), this article shall remain operative only until January 1 of the seventh taxable year following the first appearance of the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund on the tax return, and is repealed as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and by September 1 of each subsequent calendar year that the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund appears on the tax return, the Franchise Tax Board shall determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount for the calendar year. The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article shall be inoperative with respect to taxable years beginning on or after January 1 of that calendar year and shall be repealed on December 1 of that year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000).