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SB-113 Economic relief: COVID-19 pandemic. (2021-2022)

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Senate Bill No. 113

CHAPTER 3

An act to add Sections 8654.2 and 16429.7 to the Government Code, to add Section 116773.5 to the Health and Safety Code, and to amend Sections 6902.5, 12209, 17039, 17039.3, 17052.10, 17276.23, 19900, 19902, 23036.3, and 24416.23 of, to add Sections 17158.2, 17158.3, 24308.2, and 24308.3 to, and to add and repeal Sections 17131.16, 17131.17, 24308.4, and 24308.5 of, the Revenue and Taxation Code, relating to economic relief, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor February 09, 2022. Filed with Secretary of State February 09, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 113, Committee on Budget and Fiscal Review. Economic relief: COVID-19 pandemic.

(1) Existing law, the California Emergency Services Act, authorizes the Governor to proclaim a state of emergency when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor to exercise certain powers in response to that emergency, including, but not limited to, making expenditures from any fund legally available in order to deal with actual or threatened conditions of the state of emergency.

On March 4, 2020, the Governor proclaimed a state of emergency in response to the 2019 novel coronavirus disease (COVID-19) pandemic. Pursuant to specified provisions relating to the prevention and control of communicable diseases, the State Public Health Officer ordered all individuals living in the state to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as specified. Pursuant to authority under specified provisions of the California Emergency Services Act, the Governor issued Executive Order No. N-33-20 requiring all residents to immediately heed those state public health directives.

Existing law, the California Small Business COVID-19 Relief Grant Program, requires the Office of Small Business Advocate within the Governor's Office of Business and Economic Development to allocate grants to qualified small businesses affected by COVID-19 and the related health and safety restrictions, such as business interruptions or business closures incurred as a result of the COVID-19 pandemic, in accordance with specified criteria.

This bill would create the California Emergency Relief Fund as a special fund in the State Treasury to provide emergency resources or relief relating to state of emergency declarations proclaimed by the Governor. The bill would transfer from the General Fund to the California Emergency Relief Fund \$150,000,000 for purposes relating to the COVID-19 emergency proclaimed by the Governor on March 4, 2020. The bill would appropriate \$150,000,000 from that fund to the Office of Small Business Advocate for a closed round to fund small business grant applications waitlisted from previous rounds of the California Small Business COVID-19 Relief Grant Program.

(2) Existing law establishes the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 and creates the California Water and Wastewater Arrearage Payment Program for administration by the State Water Resources Control Board upon appropriation, as specified. Existing law authorizes community water systems to apply for program funds to assist customers who have past-due bills from the COVID-19 pandemic bill relief period, as defined. Existing law requires community water systems to allocate payments received under the program as bill credits to customers, as provided, to help address past-due bills incurred during the COVID-19 pandemic bill relief period. If there are sufficient funds appropriated for purposes of the program, existing law requires the state board to use the remaining funds to establish a similar program for funding wastewater treatment provider arrearages and shortfalls.

Existing law also establishes within the Department of Community Services and Development the California Arrearage Payment Program (CAPP) under which specified electric and gas utilities are authorized to apply for CAPP funds, on behalf of their customers in arrears, and requires the utility to use any funds received, as specified, to offset customer arrearages that were incurred during the COVID-19 pandemic bill relief period, as defined. Existing law prohibits service from being discontinued due to nonpayment for those customers included in a utility's CAPP application while the department reviews and approves all pending CAPP applications, and requires the utility applicant to waive any associated late fees and accrued interest for customers who are awarded CAPP benefits. Existing law requires the utility applicant to issue CAPP benefits to customers as bill credits to help address the eligible past due balance. Existing law requires the department to report specified data to the Legislature and on its public-facing internet website relating to distribution of CAPP benefits.

This bill would require that any assistance or relief authorized by, and provided by a community water system, a wastewater treatment provider, or a utility applicant to an individual pursuant to, those acts be treated in the same manner as the federal earned income refund for purposes of determining the individual's eligibility to receive benefits under specified public social services laws. The bill would also prohibit any assistance or relief from being taken into account as income, or as resources for a period of 12 months from receipt, for purposes of determining the eligibility of the individual, or any other individual, for benefits or assistance for any other state or local program, as provided.

The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally define "gross income" as income from whatever source derived, and provide various exclusions from gross income.

This bill, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, would exclude from gross income any amount of bill credits received by a customer from a community water system, wastewater treatment provider, or utility applicant pursuant to those acts. The bill would repeal these provisions on December 1, 2026.

(3) The Sales and Use Tax Law, in lieu of specified credits allowed under the Personal Income Tax Law and the Corporation Tax Law for qualified expenditures paid or incurred by a taxpayer for the production of a qualified motion picture, allows a qualified taxpayer or affiliate to make an irrevocable election to (A) claim a refund of qualified sales and use taxes previously paid during a specified period not exceeding the income tax credit amount and (B) apply that income tax credit amount against qualified sales and use taxes imposed on the qualified taxpayer in the reporting periods in the 5 years following the reporting period for which the claimant was required to file its most recent sales and use tax return, as specified. Existing law prohibits the total amount of refunds or credit offsets claimed in lieu of qualified motion picture tax credits that would otherwise be allowed for a taxable year beginning on or after January 1, 2020, and before January 1, 2023, from exceeding \$5,000,000.

This bill would limit this prohibition to taxable years beginning on or after January 1, 2020, and before January 1, 2022.

Existing law provides that, for taxable years beginning on or after January 1, 2020, and before January 1, 2023, for those amounts that are in excess of \$5,000,000 for that taxable year, the claimant may offset that excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the 5 years following and including the reporting period beginning on and after January 1, 2024.

This bill would limit these provisions to taxable years beginning on or after January 1, 2020, and before January 1, 2022, and would instead provide that, for those amounts in excess of \$5,000,000, the claimant may (i) elect to obtain a refund, subject to specified limitations, of the qualified sales and use taxes paid or offset that excess credit amount, or assigned portion against the qualified sales and use taxes imposed, during the reporting periods that occur during the 2021 calendar year or (ii) the claimant may offset the remaining excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the 5 years following and including the reporting period beginning on and after January 1, 2022, as specified.

(4) Existing state constitutional law governing insurance taxation imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. Existing law governing the taxation of insurers allows as credits against the taxes imposed by those laws a low-income housing tax credit allocated by the California Tax Credit Allocation Committee, a College Access Tax Credit allocated and certified by the California Educational Facilities Authority, and a credit in an amount equal to the amount of the gross premiums tax due from an insurer on account of pilot project insurance for previously uninsured

motorists, as defined. Existing law allows any excess low-income housing tax credit and College Access Tax Credit to be carried over to reduce the tax in a succeeding year, as specified.

Existing law provides that, for the years 2020, 2021, and 2022, the total amount of College Access Tax Credits and uninsured motorist tax credits otherwise allowable, including any credit amount allowed to be carried over to reduce tax in the following year, shall not reduce the annual tax by more than \$5,000,000 for a given year.

This bill would, instead, provide that the above \$5,000,000 cap applies only to the years 2020 and 2021.

(5) The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally define “gross income” as income from whatever source derived, and provide various exclusions from gross income. Existing law reduces the amount of any credit or deduction otherwise allowed under the Personal Income Tax and the Corporation Tax Law for any amount paid or incurred by the taxpayer upon which this exclusion is based by the amount of the exclusion allowed.

Existing federal law, the American Rescue Plan Act of 2021, awards restaurant revitalization grants to eligible entities, including restaurants, food stands, food trucks, bars, and brewpubs, who meet specified requirements beginning on and after February 1, 2020. Existing federal law excludes from gross income for purposes of federal income taxes any amount received in the form of a restaurant revitalization grant, as specified. Existing federal law prohibits reductions in tax deductions, reductions in tax attributes, and denials of basis adjustments, for federal income tax purposes based on that exclusion.

This bill, in modified conformity with federal law, would exclude, for taxable years beginning on or after January 1, 2020, from gross income any amount received in the form of a federal restaurant revitalization grant. The bill would adopt, except as provided, the provisions of the American Rescue Plan Act of 2021 prohibiting any reduction in tax deductions, reductions in tax attributes, and denials of basis adjustments based on the exclusion from gross income.

Existing federal law, the Hard-Hit Small Businesses, Nonprofits, and Venues Act, among other things, awards grants to eligible shuttered venue operators, including live venue operators or promoters, theatrical producers, and live performing arts organization operators. Existing federal law excludes from gross income for purposes of federal income taxes any amount received in the form of a shuttered venue operator grant, as specified. Existing federal law prohibits reductions in tax deductions, reductions in tax attributes, and denials of basis adjustments, for federal income tax purposes based on that exclusion.

This bill, for taxable years beginning on or after January 1, 2019, and in conformity with federal law, would exclude from gross income any amount received in the form of a federal shuttered venue operator grant. The bill would adopt, except as provided, the provisions of the federal Consolidated Appropriations Act, 2021, prohibiting any reduction in tax deductions, reductions in tax attributes, and denials of basis adjustments based on the exclusion from gross income, as provided.

(6) The Personal Income Tax Law and Corporation Tax Law, in modified conformity with federal income tax laws, generally allow various deductions in computing the income that is subject to taxes imposed by those laws, including a deduction for a net operating loss as specified. Existing law suspends the deduction for a net operating loss, as specified, for taxable years beginning on or after January 1, 2020, and before January 1, 2023.

The Personal Income Tax Law and Corporation Tax Law generally authorize various credits against the taxes imposed by those laws. Existing law provides that, except as specified, the total credits allowable under those laws may not reduce the taxes imposed by those laws by more than \$5,000,000, as provided, for taxable years beginning on or after January 1, 2020, and before January 1, 2023.

This bill would reinstate the net operating loss deduction, and would remove the above-described temporary limitation on allowable credits, for taxable years beginning on or after January 1, 2022.

(7) Existing law, the Small Business Relief Act, authorizes specified partnerships and “S” corporations, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, to elect to pay an elective tax at a rate based on its net income, as specified, for the taxable year. The act, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, allows a credit against the personal income tax to a taxpayer, other than a partnership, that is a partner, shareholder, or member of an entity that elects to pay the elective tax, in an amount equal to a specified percentage of the partner's, shareholder's, or member's pro rata share or distributive share, as applicable, of income subject to the elective tax paid by the entity. The act defines a qualified entity for these purposes as an entity that is taxed as a partnership or “S” corporation with partners, shareholders, or members that are corporations or taxpayers, but not partnerships. The act excludes a business entity that is disregarded for federal tax purposes from the definition of taxpayer, and defines qualified net income as the sum of the pro rata share or distributive share of income subject to tax under the Personal Income Tax Law, as specified.

This bill, for purposes of the Small Business Relief Act, would include a partnership as an eligible partner, shareholder, or member for purposes of a qualified entity, and would include a limited liability company that is disregarded for federal tax purposes and

meets specified criteria in the definition of a qualified taxpayer. The bill would also include specified guaranteed payments as qualified net income for purposes of the act.

The Personal Income Tax Law provides for an alternative minimum tax and provides that, except for specified credits, no credit shall reduce the regular tax, as defined, below the tentative minimum tax. Existing law also requires credits allowed against the net tax to be applied in a specified order, including applying credits that reduce the regular tax below the tentative minimum tax before credits for taxes paid to other states.

This bill, for taxable years beginning on or after January 1, 2021, would allow the elective tax credit to reduce the regular tax below the tentative minimum tax. The bill, for taxable years beginning on or after January 1, 2022, would require the elective tax credit to be applied against the net tax after credits for taxes paid to other states.

(8) Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill, for specified provisions, would provide findings to comply with the additional information requirement for any bill authorizing a new tax expenditure.

(9) This bill would also make findings and declarations related to a gift of public funds.

(10) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

SECTION 1. Section 8654.2 is added to the Government Code, to read:

8654.2. (a) There is hereby created the California Emergency Relief Fund as a special fund in the State Treasury. This fund is established to provide emergency resources or relief relating to state of emergency declarations by the Governor.

(b) The sum of one hundred fifty million dollars (\$150,000,000) is hereby transferred from the General Fund to the California Emergency Relief Fund for purposes relating to the COVID-19 emergency proclaimed by the Governor on March 4, 2020.

(c) For the purposes of providing emergency relief to small business impacted by the COVID-19 pandemic, one hundred fifty million dollars (\$150,000,000) California Emergency Relief Fund is appropriated to the Office of Small Business Advocate within the Governor's Office of Business and Economic Development for a closed round to fund small business grant applications waitlisted from previous rounds of the California Small Business COVID-19 Relief Grant Program (Article 8 (commencing with Section 12100.80) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code).

SEC. 2. Section 16429.7 is added to the Government Code, to read:

16429.7. (a) Notwithstanding any other law, any assistance or relief authorized by, and provided to an individual by a utility applicant under, the California Arrearage Payment Program (CAPP) established pursuant to this article shall be treated in the same manner as the federal earned income refund for the purpose of determining the individual's eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, excluding benefits under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, or amounts of those benefits.

(b) Notwithstanding any other law, any assistance or relief authorized by, and provided to an individual by a utility applicant under, the California Arrearage Payment Program (CAPP) established pursuant to this article shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of that individual or any other individual for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (a). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

SEC. 3. Section 116773.5 is added to the Health and Safety Code, to read:

116773.5. (a) Notwithstanding any other law, any assistance or relief authorized by, and provided by a community water system or a wastewater treatment provider to an individual pursuant to, this chapter shall be treated in the same manner as the federal earned income refund for the purpose of determining the individual's eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, excluding benefits under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, or amounts of those benefits.

(b) Notwithstanding any other law, any assistance or relief authorized by, and provided by a community water system or a wastewater treatment provider to an individual pursuant to, this chapter shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of that individual, or any other individual, for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (a). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

SEC. 4. Section 6902.5 of the Revenue and Taxation Code is amended to read:

6902.5. (a) For the purposes of this section:

(1) "Qualified taxpayer" means a person who is a qualified taxpayer within the meaning of paragraph (17) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695, or paragraph (19) of subdivision (b) of Section 17053.98 or 23698.

(2) "Affiliate" means a qualified taxpayer's affiliated corporation that has been assigned any portion of the credit amount by the qualified taxpayer pursuant to subdivision (c) of Section 23685, subdivision (c) of Section 23695, or subdivision (c) of Section 23698.

(3) "Credit amount" means an amount equal to the tax credit amount that would otherwise be allowed to a qualified taxpayer pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698, but for the election made pursuant to this section.

(4) "Production period" means the production period as defined in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695 or in paragraph (14) of subdivision (b) of Section 17053.98 or 23698.

(5) (A) "Qualified sales and use taxes" means any state sales and use taxes imposed by Part 1 (commencing with Section 6001), on the operative date of the act adding this section.

(B) Notwithstanding subparagraph (A), "qualified sales and use taxes" does not mean taxes imposed by Section 6051.2, 6051.5, 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), or Section 35 of Article XIII of the California Constitution.

(b) (1) A qualified taxpayer may, in lieu of claiming the credit allowed by Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698, make an irrevocable election to apply the credit amount against qualified sales and use taxes imposed on the qualified taxpayer in accordance with this section.

(2) An affiliate may, in lieu of claiming the assigned portion of the credit allowed by Section 23685, 23695, or 23698, make an irrevocable election to apply the assigned portion of the credit amount against qualified sales and use taxes imposed on the affiliate in accordance with this section.

(c) (1) A qualified taxpayer or affiliate shall submit to the California Department of Tax and Fee Administration an irrevocable election, in a form as prescribed by the California Department of Tax and Fee Administration, which shall include, but not be limited to, the following information:

(A) Representation that the claimant is a qualified taxpayer or an affiliate.

(B) Statement of the dates on which the production period began and ended.

(C) The credit amount, and if an affiliate, the portion of the credit amount assigned to it and documentation supporting the assignment of that portion of the credit amount.

(D) The amount of qualified sales and use taxes the claimant remitted to the California Department of Tax and Fee Administration during the period commencing on the first day of the calendar quarter commencing immediately before the beginning of the production period, and ending on the date the claimant was required to file its most recent sales and use tax return with the California Department of Tax and Fee Administration.

(E) A copy of the credit certificate issued pursuant to subparagraph (C) of paragraph (2) of subdivision (g) of Section 17053.85 or 23685 or subparagraph (D) of paragraph (3) of subdivision (g) of Section 17053.95, 17053.98, 23695, or 23698.

(2) The election shall be filed on or before the date on which the qualified taxpayer or affiliate would first be allowed to claim a credit pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 on its tax return.

(3) (A) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after

January 1, 2020, and before January 1, 2022, subdivision (d) and paragraph (1) of subdivision (e) shall only apply to those in-lieu credit amounts that do not exceed five million dollars (\$5,000,000) for that taxable year.

(B) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, that are in excess of five million dollars (\$5,000,000) for that taxable year, subdivision (f) shall apply.

(d) (1) The claimant may elect to obtain a refund of qualified sales and use taxes paid during the period described in subparagraph (D) of paragraph (1) of subdivision (c). If the claimant elects to obtain a refund of qualified sales and use taxes, the claimant shall file a claim for refund with the irrevocable election described in subdivision (c). The refund amount shall not exceed, for a qualified taxpayer, the credit amount, or for an affiliate, the portion of the credit amount assigned to it.

(2) No interest shall be paid on any amount refunded or credited pursuant to paragraph (1).

(e) (1) If the claimant does not elect to obtain a refund or in the case where the credit amount, or assigned portion, exceeds the amount of its claim for refund for the qualified sales and use taxes, the claimant may, for the reporting periods in the five years following the last reporting period as described in subparagraph (D) of paragraph (1) of subdivision (c), offset any remaining credit amount, or assigned portion, against the qualified sales and use taxes imposed during those reporting periods.

(2) Notwithstanding paragraph (1), the total amount of refunds or credit offsets claimed under subdivision (d) and paragraph (1) of this subdivision in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for a taxable year beginning on or after January 1, 2020, and before January 1, 2022, shall not exceed five million dollars (\$5,000,000).

(f) Notwithstanding subdivision (d) and paragraph (1) of subdivision (e), for those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, that are in excess of five million dollars (\$5,000,000) for that taxable year, both of the following shall apply:

(1) The claimant may elect to obtain a refund of the qualified sales and use taxes paid or offset that excess credit amount, or assigned portion against the qualified sales and use taxes imposed, during the reporting periods that occur during the 2021 calendar year. The total amount of refunds or credit offsets claimed under this paragraph, subdivision (d), and paragraph (1) of subdivision (e) shall not exceed five million dollars (\$5,000,000) in the 2021 calendar year for each claimant.

(2) If the claimant has not exhausted the excess credit amount, or assigned portion, as provided by paragraph (1), the claimant may offset the remaining excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the five years following and including the reporting period beginning on and after January 1, 2022.

(g) Section 6961 shall apply to any refund, or part thereof, that is erroneously made and any credit, or part thereof, that is erroneously allowed pursuant to this section.

(h) The California Department of Tax and Fee Administration shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Department of Tax and Fee Administration and the Franchise Tax Board, of the qualified taxpayers, or affiliates that have been assigned a portion of the credit allowed under Section 23685 pursuant to subdivision (c) of Section 23685, Section 23695 pursuant to subdivision (c) of Section 23695, or Section 23698 pursuant to subdivision (c) of Section 23698, who, during the year, have made an irrevocable election pursuant to this section and the credit amount, or portion of the credit amount, claimed by each qualified taxpayer or affiliate.

(i) The California Department of Tax and Fee Administration may prescribe rules and regulations for the administration of this section.

(j) The amendments made to this section by the act adding this subdivision shall not apply to irrevocable elections made before the operative date of the act adding this subdivision.

(k) The amendments made to this section by the act adding this subdivision shall apply to irrevocable elections made on and after June 29, 2020.

SEC. 5. Section 12209 of the Revenue and Taxation Code is amended to read:

12209. (a) Notwithstanding Sections 12207 and 12208 to the contrary, for the years 2020 and 2021, the total amount of all credits otherwise allowable under Sections 12207 and 12208, including any credit amount allowed to be carried over pursuant to those sections or subdivision (c), shall not reduce the "tax," as described by Section 12201, by more than five million dollars (\$5,000,000) for a given year.

(b) (1) The amount of any credit otherwise allowable for a year under Section 12207 that is not allowed due to the application of this section shall remain a credit carryover amount under Section 12207.

(2) The carryover period for any credit allowable under Section 12207 that is not allowed due to the application of this section shall be increased by the number of years the credit or any portion thereof was not allowed.

(c) The amount of any credit otherwise allowable for a year under Section 12208 that was not allowed due to the application of this section may be carried over to reduce the "tax," as described by Section 12201, for the following year, and succeeding years if necessary, until the credit amount or any portion thereof that was not allowed due to the application of this section is exhausted. However, any credit amount under Section 12208 that is allowed to be carried over pursuant to this subdivision is also subject to the limitation in subdivision (a).

(d) The limitation under subdivision (a) shall not apply to the credit allowed by Section 12206 (relating to credit for low-income housing).

SEC. 6. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions, except for those that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) (A) For taxable years beginning on or after January 1, 2002, and before January 1, 2022, credits that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062.

(B) For taxable years beginning on or after January 1, 2022, credits that are allowed to reduce "net tax" below the tentative minimum tax, as defined by Section 17062, except the credit described in paragraph (7).

(6) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(7) For taxable years beginning on or after January 1, 2022, the credit allowed by Section 17052.10 (relating to the elective tax under the Small Business Relief Act).

(8) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits:

(A) The credit allowed by former Section 17052.2 (relating to teacher retention tax credit, repealed on August 24, 2007).

(B) The credit allowed by former Section 17052.4 (relating to solar energy, repealed on December 1, 1989).

(C) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on January 1, 1987).

(D) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on December 1, 1994).

(E) The credit allowed by Section 17052.12 (relating to research expenses).

(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit, repealed on January 1, 1997).

(G) The credit allowed by former Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit, repealed on December 1, 1998).

(H) The credit allowed by Section 17052.25 (relating to the adoption costs credit).

(I) The credit allowed by Section 17053.5 (relating to the renter's credit).

(J) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit, repealed on October 3, 1997).

(K) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit, repealed on December 1, 1998).

(L) The credit allowed by former Section 17053.11 (relating to program area hiring credit, repealed on January 1, 1997).

(M) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit, repealed on December 1, 1998).

(N) The credit allowed by former Section 17053.33 (relating to targeted tax area sales or use tax credit, repealed on December 1, 2015).

(O) The credit allowed by former Section 17053.34 (relating to targeted tax area hiring credit, repealed on December 1, 2019).

(P) The credit allowed by former Section 17053.49 (relating to qualified property, repealed on January 1, 2004).

(Q) The credit allowed by former Section 17053.70 (relating to enterprise zone sales or use tax credit, repealed on December 1, 2015).

(R) The credit allowed by former Section 17053.74 (relating to enterprise zone hiring credit, repealed on December 1, 2019).

(S) The credit allowed by Section 17054 (relating to credits for personal exemption).

(T) The credit allowed by Section 17054.5 (relating to the credits for a qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(U) The credit allowed by Section 17054.7 (relating to the credit for a senior head of household).

(V) The credit allowed by former Section 17057 (relating to clinical testing expenses, repealed on December 1, 1993).

(W) The credit allowed by Section 17058 (relating to low-income housing).

(X) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 17059.2 (relating to GO-Biz California Competes Credit).

(Y) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(Z) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(AA) The credit allowed by Section 19002 (relating to tax withholding).

(AB) For taxable years beginning on or after January 1, 2014, the credit allowed by former Section 17053.86 (relating to the College Access Tax Credit Fund, repealed on December 1, 2017).

(AC) For taxable years beginning on or after January 1, 2017, the credit allowed by Section 17053.87 (relating to the College Access Tax Credit Fund).

(AD) For taxable years beginning on or after January 1, 2021, the credit allowed by Section 17052.10 (relating to the elective tax under the Small Business Relief Act).

(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately before being repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than spouses) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to the taxpayer's respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit shall be allocated among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of spouses who file separate returns, the credit may be taken by either or equally divided between them.

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

(g) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity shall be limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "net tax," as defined in subdivision (a), for the taxable year shall be limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 17062), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to that disregarded business entity. A credit shall not be allowed if the taxpayer's regular tax (as defined in Section 17062), determined by including the income attributable to the disregarded business entity, is less than the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (c) and (d).

(h) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-thru entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit before the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision applies to credits that become inoperative on or after January 1, 2002.

(i) The amendments made to this section by the act adding this subdivision shall apply as follows:

(1) The amendments to subdivisions (a), (e), and (h) shall be operative for taxable years beginning on or after January 1, 2022.

(2) The amendments to subdivision (c) shall be operative for taxable years beginning on or after January 1, 2021.

SEC. 7. Section 17039.3 of the Revenue and Taxation Code is amended to read:

17039.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2022, the total of all business credits otherwise allowable under any provision of Chapter 2 (commencing with Section 17041), including the carryover of any business credit under a former provision of that chapter, for the taxable year shall not reduce the "net tax," as defined in Section 17039, by more than five million dollars (\$5,000,000).

(b) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for taxpayers required to be included in a combined report under Section 25101 or 25110, or taxpayers authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2022, the total of all business credits otherwise allowable under any provision of Chapter 2 (commencing with Section 17041), including the carryover of any business credit under a former provision of that chapter, by all members of the combined report shall not reduce the aggregate amount of "tax," as defined in Section 23036, of all members of the combined report by more than five million dollars (\$5,000,000).

(c) For purposes of this section, "business credit" means a credit allowable under any provision of Chapter 2 (commencing with Section 17041) other than the following credits:

- (1) The credit allowed by Section 17052 (relating to credit for earned income).
- (2) The credit allowed by Section 17052.1 (relating to credit for young child).
- (3) The credit allowed by Section 17052.6 (relating to credit for household and dependent care).
- (4) The credit allowed by Section 17052.25 (relating to credit for adoption costs).
- (5) The credit allowed by Section 17053.5 (relating to renter's tax credit).
- (6) The credit allowed by Section 17054 (relating to credit for personal exemption).
- (7) The credit allowed by Section 17054.5 (relating to credit for qualified joint custody head of household and a qualified taxpayer with a dependent parent).
- (8) The credit allowed by Section 17054.7 (relating to credit for qualified senior head of household).
- (9) The credit allowed by Section 17058 (relating to credit for low-income housing).
- (10) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(d) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 against qualified sales and use tax, as defined in Section 6902.5, are not included in the five-million-dollar (\$5,000,000) limitation set forth in subdivision (a) or (b).

(e) The amount of any credit otherwise allowable for the taxable year under Section 17039 that is not allowed due to application of this section shall remain a credit carryover amount under this part.

(f) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

(g) Notwithstanding anything to the contrary in this part or Part 10.2 (commencing with Section 18401), the credits listed in subdivision (c) shall be applied after any business credits, as limited by subdivision (a) or (b), are applied.

(h) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(i) The amendments made to this section by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2022.

SEC. 8. Section 17052.10 of the Revenue and Taxation Code is amended to read:

17052.10. (a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, in an amount equal to the qualified amount.

(b) For purposes of this section:

(1) "Electing qualified entity" means a qualified entity, as defined by Section 19902, that has elected to pay the elective tax under Part 10.4 (commencing with Section 19900).

(2) "Qualified amount" means an amount equal to 9.3 percent of the sum of the qualified taxpayer's guaranteed payments as defined by Section 707(c) of the Internal Revenue Code, relating to guaranteed payments, and the qualified taxpayer's pro rata share or distributive share, as applicable, of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in qualified net income, as defined in Section 19900, subject to the election made by an electing qualified entity under Part 10.4 (commencing with Section 19900).

(3) "Qualified taxpayer" means:

(A) A taxpayer, as defined in Section 17004, excluding partnerships, that is a partner, shareholder, or member of an electing qualified entity that consented to have the sum of their guaranteed payments and pro rata share or distributive share of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in the qualified net income, as defined in Section 19900, of the electing qualified entity.

(B) "Qualified taxpayer" does not include a business entity that is disregarded for federal tax purposes, as described in Section 23038, or its partners or members.

(C) Subparagraph (B) shall not apply to a limited liability company that is disregarded for federal tax purposes, as described in Section 23038, and meets both of the following:

(i) Is owned by a taxpayer, as defined in Section 17004, excluding partnerships, that consented to have the sum of their guaranteed payments and pro rata share or distributive share of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in the qualified net income, as defined in Section 19900, of the electing qualified entity.

(ii) Is a partner, shareholder, or member of an electing qualified entity.

(c) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following taxable year, and succeeding four years, if necessary, until the credit is exhausted.

(d) (1) Any disallowance of a credit under this section due to any of the following conditions shall be treated as a mathematical error appearing on the return:

(A) Timely payment was not made under subdivision (b) of Section 19904.

(B) Payments made for the taxable year exceed the elective tax computed under Part 10.4 (commencing with Section 19900).

(C) No election was made or allowed under Part 10.4 (commencing with Section 19900).

(2) Any amount of tax resulting from such disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

(e) (1) The Franchise Tax Board may adopt regulations that are necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any regulation, rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) For the purposes of complying with Section 41, the Legislature finds and declares that the goal of this tax credit is to provide tax relief to small businesses facing unprecedented economic hurdles due to COVID-19.

(g) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

(h) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 9. Section 17131.16 is added to the Revenue and Taxation Code, to read:

17131.16. (a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, gross income does not include a bill credit or credits received by a customer from a community water system or wastewater treatment provider pursuant to the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 (Chapter 4.7 (commencing with Section 116773) of Part 12 of Division 104 of the Health and Safety Code).

(b) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 10. Section 17131.17 is added to the Revenue and Taxation Code, to read:

17131.17. (a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, gross income does not include a bill credit or credits received by a customer from a utility applicant under the California Arrearage Payment Program (CAPP), pursuant to the California Arrearage Payment Program Under the American Rescue Plan Act of 2021 (Article 12 (commencing with Section 16429.5) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code).

(b) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 11. Section 17158.2 is added to the Revenue and Taxation Code, to read:

17158.2. (a) For taxable years beginning on or after January 1, 2020, gross income does not include any amount awarded as a restaurant revitalization grant pursuant to Section 9009c of Title 15 of the United States Code.

(b) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2020, paragraph (2) of Section 9673 of the American Rescue Plan Act of 2021 (Public Law 117-2) shall apply, except as provided.

(2) Paragraph (2) of Section 9673 of the American Rescue Plan Act of 2021 (Public Law 117-2) is modified by substituting the phrase “provided by paragraph (1)” with “provided by this section.”

(c) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this section.

(d) This section shall be operative for taxable years beginning on or after January 1, 2020.

SEC. 12. Section 17158.3 is added to the Revenue and Taxation Code, to read:

17158.3. (a) For taxable years beginning on or after January 1, 2019, gross income does not include any amount awarded as a shuttered venue operator grant pursuant to Section 9009a of Title 15 of the United States Code.

(b) (1) Notwithstanding Section 17280, for taxable years beginning on or after January 1, 2019, subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase “For purposes of the Internal Revenue Code of 1986” with “For purposes of this part”.

(3) Paragraphs (2) and (3) of subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(c) For purposes of this section:

(1) “Ineligible entity” means a taxpayer that either:

(A) Is a publicly-traded company.

(B) Does not meet the reduction from the gross receipts requirements of Section 636(a)(37)(A)(iv)(bb) of Title 15 of the United States Code, as added by Section 311 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(2) “Publicly-traded company” means a publicly-traded entity as described in Section 342 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(d) This section shall be operative for taxable years beginning on or after January 1, 2019.

SEC. 13. Section 17276.23 of the Revenue and Taxation Code is amended to read:

17276.23. (a) Notwithstanding Sections 17276, 17276.1, 17276.4, 17276.7, and 17276.22, former Sections 17276.2, 17276.5, 17276.6, and 17276.20, and Section 172 of the Internal Revenue Code, a net operating loss deduction shall not be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022.

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

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2020, and before January 1, 2021.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2020.

(c) This section shall not apply as follows:

(1) For a taxable year beginning on or after January 1, 2020, and before January 1, 2022, this section shall not apply to a taxpayer with a net business income of less than one million dollars (\$1,000,000) for the taxable year.

(2) For a taxable year beginning on or after January 1, 2020, and before January 1, 2022, this section shall not apply to a taxpayer with a modified adjusted gross income of less than one million dollars (\$1,000,000) for the taxable year.

(d) For purposes of this section:

(1) “Business income” means any of the following:

(A) Income from a trade or business, whether conducted by the taxpayer or by a passthrough entity owned directly or indirectly by the taxpayer.

(B) Income from rental activity.

(C) Income attributable to a farming business.

(2) "Modified adjusted gross income" means the amount described in paragraph (2) of subdivision (h) of Section 17024.5, determined without regard to the deduction allowed under Section 172 of the Internal Revenue Code, relating to net operating loss deduction.

(3) "Passthrough entity" means a partnership or an S corporation.

(e) The amendments made to this section by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2022.

SEC. 14. Section 19900 of the Revenue and Taxation Code is amended to read:

19900. (a) (1) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, a qualified entity doing business in this state, as defined in Section 23101, and that is required to file a return under Section 18633, 18633.5, or subdivision (a) of Section 18601, may elect to annually pay an elective tax according to or measured by its qualified net income, defined in paragraph (2), computed at the rate of 9.3 percent for the taxable year for which the election is made.

(2) For purposes of this section, the "qualified net income" of a qualified entity means the sum of the pro rata share or distributive share of income, and any guaranteed payments, as described by Section 707(c) of the Internal Revenue Code, relating to guaranteed payments, subject to tax under Part 10 (commencing with Section 17001) for the taxable year of each qualified taxpayer, as defined in Section 17052.10.

(b) (1) The elective tax authorized by this part shall be in addition to, and not in place of, any other tax or fee required to be paid under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(2) The elective tax described in this part shall be assessed and collected under Part 10.2 (commencing with Section 18401).

(3) Unless the context otherwise requires, the definitions set forth in this part and those in Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001) shall apply.

(c) (1) The qualified entity may include in its qualified net income the pro rata share or distributive share of the income of any of its partners, shareholders, or members upon their consent. A partner, shareholder, or member that does not consent does not prevent the qualified entity from making an election to pay the elective tax.

(2) All partners, shareholders, and members of the qualified entity shall be bound by the election made under this part for the taxable year.

(d) The election shall be irrevocable and shall be made on an original, timely filed return required under Part 10.2 (commencing with Section 18401) for the taxable year of the election in the form and manner as prescribed by the Franchise Tax Board.

(e) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

SEC. 15. Section 19902 of the Revenue and Taxation Code is amended to read:

19902. (a) For purposes of this part, "qualified entity" means an entity that meets both of the following requirements for the taxable year:

(1) The entity is taxed as a partnership or "S" corporation.

(2) The entity's partners, shareholders, or members in that taxable year are exclusively corporations, as defined in Section 23038, or taxpayers as defined in Section 17004.

(b) "Qualified entity" shall not include any of the following:

(1) Publicly traded partnerships, as defined in Section 7704 of the Internal Revenue Code, as it read on January 1, 2021, as modified by Section 17008.5.

(2) An entity that is permitted or required to be in a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations.

(c) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

SEC. 16. Section 23036.3 of the Revenue and Taxation Code is amended to read:

23036.3. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, except as provided in subdivision (d), for taxpayers not required to be included in a combined report under Section 25101 or 25110, or taxpayers not authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2022, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604) including the carryover of any credit under a former provision of that chapter, for the taxable year shall not reduce the "tax," as defined in Section 23036, by more than five million dollars (\$5,000,000).

(b) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, except as provided in subdivision (d), for taxpayers required to be included in a combined report under Section 25101 or 25110, or taxpayers authorized to be included in a combined report under Section 25101.15, for each taxable year beginning on or after January 1, 2020, and before January 1, 2022, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604), including the carryover of any credit under a former provision of that chapter, by all members of the combined report shall not reduce the aggregate amount of "tax," as defined in Section 23036, of all members of the combined report by more than five-million-dollars (\$5,000,000).

(c) Any amounts included in an election pursuant to Section 6902.5, relating to an irrevocable election to apply credit amounts under Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 against qualified sales and use tax, as defined in Section 6902.5, are not included in the five million dollar (\$5,000,000) limitation set forth in subdivision (a) or (b).

(d) The limitation under subdivision (a) or (b) shall not apply to the credit allowed by Section 23610.5 (relating to credit for low-income housing).

(e) The amount of any credit otherwise allowable for the taxable year under Section 23036 that is not allowed due to the application of this section shall remain a credit carryover amount under this part.

(f) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit or any portion thereof was not allowed.

(g) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(h) The amendments made to this section by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2022.

SEC. 17. Section 24308.2 is added to the Revenue and Taxation Code, to read:

24308.2. (a) For taxable years beginning on or after January 1, 2020, gross income does not include any amount awarded as a restaurant revitalization grant pursuant to Section 9009c of Title 15 of the United States Code.

(b) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2020, paragraph (2) of Section 9673 of the American Rescue Plan Act of 2021 (Public Law 117-2) shall apply, except as provided.

(2) Paragraph (2) of Section 9673 of the American Rescue Plan Act of 2021 (Public Law 117-2) is modified by substituting the phrase "provided by paragraph (1)" with "provided by this section."

(c) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this section.

(d) This section shall be operative for taxable years beginning on or after January 1, 2020.

SEC. 18. Section 24308.3 is added to the Revenue and Taxation Code, to read:

24308.3. (a) For taxable years beginning on or after January 1, 2019, gross income does not include any amount awarded as a shuttered venue operator grant pursuant to Section 9009a of Title 15 of the United States Code.

(b) (1) Notwithstanding Section 24425, for taxable years beginning on or after January 1, 2019, subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall apply, except as provided.

(2) Subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) is modified by substituting the phrase "For purposes of the Internal Revenue Code of 1986" with "For purposes of this part".

(3) Paragraphs (2) and (3) of subsection (d) of Section 278 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) shall not apply to an ineligible entity.

(c) For purposes of this section:

(1) "Ineligible entity" means a taxpayer that either:

(A) Is a publicly-traded company.

(B) Does not meet the reduction from the gross receipts requirements of Section 636(a)(37)(A)(iv)(bb) of Title 15 of the United States Code, as added by Section 311 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(2) "Publicly-traded company" means a publicly-traded entity as described in Section 342 of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260).

(d) This section shall be operative for taxable years beginning on or after January 1, 2019.

SEC. 19. Section 24308.4 is added to the Revenue and Taxation Code, to read:

24308.4. (a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, gross income does not include a bill credit or credits received by a customer from a community water system or wastewater treatment provider pursuant to the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 (Chapter 4.7 (commencing with Section 116773) of Part 12 of Division 104 of the Health and Safety Code).

(b) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 20. Section 24308.5 is added to the Revenue and Taxation Code, to read:

24308.5. (a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, gross income does not include a bill credit or credits received by a customer from a utility applicant pursuant to the California Arrearage Payment Program Under the American Rescue Plan Act of 2021 (Article 12 (commencing with Section 16429.5) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code).

(b) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 21. Section 24416.23 of the Revenue and Taxation Code is amended to read:

24416.23. (a) Notwithstanding Sections 24416, 24416.1, 24416.4, 24416.7, and 24416.22, former Sections 24416.2, 24416.5, 24416.6, and 24416.20, and Section 172 of the Internal Revenue Code, a net operating loss deduction shall not be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022.

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

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2021, and before January 1, 2022.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2020, and before January 1, 2021.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2020.

(c) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, pursuant to subdivision (a) shall not apply to a taxpayer with income subject to tax under this part of less than one million dollars (\$1,000,000) for the taxable year.

(d) The amendments made to this section by the act adding this subdivision shall be operative for taxable years beginning on or after January 1, 2022.

SEC. 22. For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17158.2, 17158.3, 24308.2, and 24308.3 of the Revenue and Taxation Code, as added by this act (hereafter "the deductions, exclusions, tax basis, and other attributes"), the Legislature finds and declares all of the following:

(a) The specific goal, purpose, and objective that the deductions, exclusions, tax basis, and other attributes will achieve is to provide assistance to shuttered venues and restaurants operating in the state that have been harmed economically by the COVID-19 pandemic.

(b) Detailed performance indicators for the Legislature to use in determining whether the deductions, exclusions, tax basis, and other attributes meet the goal, purpose, and objective described in subdivision (a) is the extent to which the businesses that received a shuttered venue operator grant or restaurant revitalization grant and subsequently used the deductions, exclusions, tax basis, and other attributes reflect the industries, regions, and businesses by type of ownership that were most substantially harmed by the COVID-19 pandemic, and whether any particular industries, regions, or businesses by type of ownership in the business community were not able to receive a shuttered venue operator grant or restaurant revitalization grant and the deductions, exclusions, tax basis, and other attributes.

(c) The Legislative Analyst's Office shall collaborate with the Franchise Tax Board, as well as reviewing other publicly available data, to analyze whether the shuttered venue operator grants and restaurant revitalization grant and the tax benefits of the deductions, exclusions, tax basis, and other attributes were distributed evenly over regions and businesses by type of ownership harmed by the COVID-19 pandemic and report by January 1, 2024, and in compliance with Section 9795 of the Government Code, to the Legislature.

(d) The data collection requirements for determining whether the deductions, exclusions, tax basis, and other attributes meet, or fail to meet, the specific goal, purpose, and objective described in subdivision (a) are:

(1) To assist the Legislature in determining whether the deductions, exclusions, tax basis, and other attributes meet the specific goal, purpose, and objective described in subdivision (a), and in order to carry out its duties pursuant to subdivision (c), the Legislative Analyst's Office may request information from the Franchise Tax Board.

(2) (A) The Franchise Tax Board shall provide any available data requested by the Legislative Analyst's Office pursuant to this subdivision.

(B) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

SEC. 23. (a) For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17131.16 and 24308.4 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares that the purpose of the exclusion allowed by Sections 17131.16 and 24308.4 of the Revenue and Taxation Code is to provide financial relief to California businesses and residents, including, in particular, low- and middle-income residents, to alleviate, in part, the adverse impacts of the economic disruptions and hardships resulting from the COVID-19 emergency.

(b) (1) For the purpose of this subdivision, "act" means the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 (Chapter 4.7 (commencing with Section 116773) of Part 12 of Division 104 of the Health and Safety Code).

(2) In order to provide information on the exclusion allowed by Sections 17131.16 and 24308.3 of the Revenue and Taxation Code, the State Water Resources Control Board shall prepare a written report that includes all of the following:

(A) The total number of households that received water system bill credits pursuant to this act.

(B) The total number of commercial customers that received water system bill credits pursuant to this act.

(C) The total number of households that received wastewater system bill credits pursuant to this act.

(D) The total number of commercial customers that received wastewater system bill credits pursuant to this act.

SEC. 24. (a) For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17131.17 and 24308.5 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares that the purpose of the exclusion allowed by Sections 17131.17 and 24308.5 of the Revenue and Taxation Code is to provide financial relief to California businesses and residents, including, in particular, low- and middle-income residents, to alleviate, in part, the adverse impacts of the economic disruptions and hardships resulting from the COVID-19 emergency.

(b) The reporting by Department of Community Services and Development to the Legislature required by subdivision (j) of Section 16429.5 of the Government Code shall constitute reporting for the purposes of complying with Section 41 of the Revenue and Taxation Code.

SEC. 25. For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 6902.5, 12209, 17039.3, 17276.23, 23036.3, and 24416.23 of the Revenue and Taxation Code, as amended by this act, the Legislature hereby finds and declares that this act merely ends the temporary limitation or suspension of existing tax expenditures one year

earlier than currently provided and does not contain additional information related to the goals, purposes, and objectives of those tax expenditures.

SEC. 26. For the purposes of complying with Section 41 of the Revenue and Taxation Code, the Legislature finds and declares that the goal of the tax expenditures in Sections 17039 and 17052.10, as amended by this act, is to provide tax relief to small businesses facing unprecedented economic hurdles due to COVID-19.

SEC. 27. (a) The Legislature hereby finds and declares that the tax credits authorized by the amendments to Section 6902.5 of the Revenue and Taxation Code made by this bill serve the public purpose of providing equitable treatment to businesses that claim tax credits under Part 1 of the Revenue and Taxation Code as those that claim tax credits under Parts 10 and 11 of the Revenue and Taxation Code and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(b) The Legislature hereby finds and declares that the exclusions and other tax benefits authorized by Sections 17158.2, 17158.3, 24308.2, and 24308.3 of the Revenue and Taxation Code made by this bill serve the public purpose of securing the financial condition of businesses that were economically harmed by the COVID-19 pandemic and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(c) The Legislature hereby finds and declares that moneys appropriated, pursuant to Section 8654.2 of the Government Code, as added by this act, to the California Small Business COVID-19 Relief Grant Program established under Article 8 (commencing with Section 12100.80) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code serves the public purpose of preventing revenue decreases, closures, and higher unemployment across the state due to the COVID-19 pandemic, and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 28. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.