SB-167 Taxation. (2023-2024)

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Senate Bill No. 167

CHAPTER 34

An act to amend Section 11340.9 of the Government Code, to amend Section 25299.81 of the Health and Safety Code, to amend Sections 42885, 42886.1, and 42889 of, and to repeal Section 42882 of, the Public Resources Code, to amend Sections 6902.5, 7103, 17052.1, 17052.2, 17209, 17260, 17275.5, 17681, 18416.5, 18572, 19164, 19187, 23036, 24357, 24831, and 50108 of, to amend and repeal Sections 17052.8, 19378, and 23604 of, to amend, repeal, and add Sections 6055 and 6203.5 of, to add Sections 17039.4, 17275.6, 17276.24, 23036.4, 24416.24, and 25128.9 to, and to repeal Sections 17681.3, 17681.6, 24423, 24831.3, and 24831.6 of, the Revenue and Taxation Code, and to amend Section 8163 of the Welfare and Institutions Code, relating to taxation, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2024. Filed with Secretary of State June 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 167, Committee on Budget and Fiscal Review. Taxation.

(1) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law makes the act inapplicable in certain circumstances, including pursuant to a legal ruling of counsel issued by the Franchise Tax Board or the State Board of Equalization.

This bill would also make the act inapplicable pursuant to a legal ruling of counsel issued by the California Department of Tax and Fee Administration.

(2) The California Tire Recycling Act, until January 1, 2034, requires a person who purchases a new tire, as defined, to pay a California tire fee of $1.75 per tire, for deposit, except for $1^1/_2$% retained by retailers and as provided below, in the California Tire Recycling Management Fund for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature for prescribed purposes related to disposal and use of used tires. Commencing January 1, 2034, existing law reduces the California tire fee to $0.75 per tire and changes the retailers' share to 3%. Existing law authorizes the department, in carrying out the act, to solicit and use any and all expertise available in, and to contract or cooperate with, other state agencies, as provided. Existing law authorizes the department to contract with the California Department of Tax and Fee Administration to collect the California tire fee. Existing law requires the department, or its authorized agent, to be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, in an amount not to exceed 3% of the total annual revenue deposited in the fund.

Existing law requires the payment of sales and use taxes, and specified taxes, fees, and surcharges that are administered by the California Department of Tax and Fee Administration under the provisions of the Sales and Use Tax Law and the Fee Collection

Procedures Law, respectively. A violation of the Fee Collection Procedures Law is a crime.

This bill would repeal the authorization to solicit and use any and all expertise available in, and to contract or cooperate with, other state agencies for purposes of the California Tire Recycling Act. The bill would also repeal the requirement that the department be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, as described. The bill would also require the California Department of Tax and Fee Administration to collect the fee imposed by the act pursuant to the Fee Collection Procedures Law. By expanding the scope of crimes, the bill would impose a state-mandated local program.

(3) The Sales and Use Tax Law (SUT) imposes taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. The SUT relieves a retailer of liability for sales and use tax, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off, either for income tax purposes or based on generally accepted accounting principles, as specified, and defines “retailer” for that purpose to include certain entities affiliated with the retailer, as specified. The SUT also, if an account is held by a lender, entitles a retailer or lender that makes a proper election, as specified, to a deduction or refund of the tax that the retailer has previously reported and paid if certain conditions are met, including that the account has been found worthless and written off by the lender pursuant to the provision described above.

This bill would sunset the definition of “retailer” described above on January 1, 2025, and would require an account to have been found worthless and written off by the lender before January 1, 2025, in order for the lender to be entitled to the deduction or refund described above. The bill would, on January 1, 2028, repeal the provision described above regarding accounts held by a lender.

(4) Under existing law, the taxes imposed by the Sales and Use Tax Law are due and payable to the California Department of Tax and Fee Administration on or before the last day of the month next succeeding each quarterly period. Existing law requires that a return for the preceding quarterly period be filed with the department on or before the last day of the month following each quarterly period, as provided. The Historic Venue Restoration and Resiliency Act requires a return filed with the department to report gross receipts for sales tax purposes to segregate the taxable sales on a line or a separate form, as prescribed by the department, if the place of sale in this state is on or within the real property of a confirmed historic venue, as defined, on the day of a qualified event and requires the department to report the amount of the total gross receipts segregated on the returns filed for the prior fiscal year to the Department of Finance on or before November 1 of each year, as prescribed. The act creates the Historic Venue Restoration and Resiliency Fund and continuously appropriates the moneys in the fund for transmission by the Controller to cities and counties with historic venues, as specified. The act requires an amount equal to 5% of the total amount of gross receipts, or adjusted gross receipts, for the prior fiscal year reported to the Department of Finance by the department to be included in the next annual Governor’s Budget for deposit into the fund and requires the Controller to, no later than 30 days after the enactment of the annual Budget Act, transfer the amount appropriated by the Legislature to the Controller, as described above, to the fund. Existing law repeals these provisions on July 1, 2030.

This bill would, among other changes related to the administration of the act, require that the return filed with the department, and the report to the Department of Finance, as described above, specify the taxable sales made at a qualified event for each confirmed historic venue. The bill would extend operation of the act’s provisions until November 1, 2030, but would limit the requirement to segregate taxable sales on the return to qualified events that occur on or before June 30, 2029. The bill would additionally require, no later than 15 days after enactment of the annual Budget Act, the Department of Finance to, for each confirmed historic venue located within the geographic boundaries of a city or county, report to the Controller the amounts to be allocated from the fund to each city and county, as prescribed.

The act requires a city or county with a confirmed historic venue to notify, within 90 days of any qualified event at the confirmed historic venue, any retailers subject to the return requirement described above making sales at the confirmed historic venue.

This bill would instead require a city or county, or its designee, to, at least 10 days before a qualified event scheduled to take place at a confirmed historic venue within the geographic boundaries of that city or county, notify any retailers subject to the return requirement described above that the city or county, or its designee, knows, or has reason to know, will be making sales during that qualified event of that return requirement.

The act requires, on or before January 1, 2027, and annually thereafter, a city or county, as defined, that receives money from the fund to deliver a report to the department regarding how that money is being used.

This bill would delete that provision.

The act requires the department to annually deliver a report to specified committees of the Legislature concerning, among other things, the amount of revenue transmitted to a city or county with respect to each confirmed historic venue.

This bill would specify that this annual report is due November 1 of each year. The bill would require the Controller to provide the department with the information related to the allocation of revenue to cities and counties, as described above, on or before September 1 of each year.

(5) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow various deductions in computing the income that is subject to the taxes imposed by those laws, including a deduction for a net operating loss, as specified. Existing law disallows the net operating loss deduction, as specified, for taxable years beginning on or after January 1, 2020, and before January 1, 2022.

This bill would disallow the net operating loss deduction for taxable years beginning on or after January 1, 2024, and before January 1, 2027.

(6) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws. Existing law, for taxable years beginning on or after January 1, 2020, and before January 1, 2022, limits the total tax reduction by all business credits, as defined, to $5,000,000 per taxable year, and allows the amounts disallowed by that limit to be carried over, as specified.

This bill would similarly apply a $5,000,000 business credit limit and related carryover provisions to taxable years beginning on or after January 1, 2024, and before January 1, 2027, as provided, unless a specified exception applies. The bill would also state the intent of the Legislature to enact legislation allowing taxpayers to utilize their credits after the limitation period ends by electing to receive a refund of those tax credits, as specified.

(7) 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 apply that income tax credit amount against qualified sales and use taxes imposed on the qualified taxpayer in the reporting periods in the following 5 years. Under existing law, amounts included in the election are excluded from the $5,000,000 business credit limitation described above.

Existing law, for irrevocable elections made on and after June 29, 2020, imposes, until January 1, 2022, a cap of $5,000,000 per taxable year on those tax credit amounts the taxpayer would otherwise be allowed to apply against those sales and use taxes for taxable years beginning on or after January 1, 2020, and before January 1, 2022, as specified.

This bill similarly, for irrevocable elections made on and after the operative date of this bill, would impose, until January 1, 2027, that $5,000,000 per taxable year cap for taxable years beginning on or after January 1, 2024, and before January 1, 2027, as specified.

(8) The Personal Income Tax Law, beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an Earned Income Tax Credit against personal income tax and a payment from the Tax Relief and Refund Account for an allowable credit in excess of tax liability to an eligible individual that is equal to that portion of the Earned Income Tax Credit allowed by federal law, as determined by the earned income tax credit adjustment factor, as specified. That credit phases out based on specified tables as the qualified taxpayer’s income increases.

The Personal Income Tax Law also allows a refundable young child tax credit against the taxes imposed under that law for each taxable year beginning on or after January 1, 2019, and a refundable foster youth tax credit for taxable years beginning on or after January 1, 2022, to a qualified taxpayer in a specified amount multiplied by the earned income tax credit adjustment factor, as provided. Those credits are reduced by a specified amount for each $100 the qualified taxpayer earns beyond a threshold amount.

This bill would require the Franchise Tax Board to calculate a graduated reduction amount for the young child tax credit and the foster youth tax credit so that the amount of those credits is equal to zero for a qualified taxpayer that earns more than the maximum amount of earned income that results in a California Earned Income Tax Credit greater than $0. The bill would apply that new graduated reduction amount for taxable years beginning on or after January 1, 2024. By increasing the payments from the Tax Relief and Refund Account, a continuously appropriated fund, the bill would make an appropriation.

(9) The Corporation Tax Law, for taxable years beginning on or after January 1, 2016, and before January 1, 2031, allows, with regard to the manufacture of a new advanced strategic aircraft for the United States Air Force, a credit against the taxes imposed under that law for $17^{1}/_{2}\%$ of qualified wages, as defined, paid or incurred by the qualified taxpayer to qualified full-time employees, subject to specified limitations. The Corporation 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, for taxable years beginning on or after January 1, 2020, and before January 1, 2026, authorizes the strategic aircraft credit to reduce the regular tax below the tentative minimum tax.

This bill would extend that authorization through taxable years beginning before January 1, 2031.

(10) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow a credit calculated based on a taxpayers qualified enhanced oil recovery costs, as defined.

This bill would provide the above-referenced credit applies for taxable years beginning before January 1, 2024, and would repeal the credit effective December 1, 2024.

(11) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow a deduction for intangible drilling and development costs in the case of oil and gas wells and geothermal wells, and a deduction for depletion of natural resource deposits. That law calculates the deduction for depletion of natural resource deposits as a percentage of gross income from the property in the case of specified natural resources, including oil, gas, and shale.

This bill would disallow the deduction for intangible drilling and development costs in the case of oil and gas wells paid or incurred on or after January 1, 2024. The bill would also disallow, for taxable years beginning on or after January 1, 2024, the calculation of depletion as a percentage of gross income from the property for specified natural resources, including coal, oil, oil shale, and gas.

(12) Existing federal law provides that refiners of crude oil with average daily refinery runs for a taxable year that are greater than 75,000 barrels cannot calculate a depletion deduction as a percentage of gross income, as described above. Existing state law does not conform to this exception for large producers.

This bill would repeal the provision that provides state law does not conform to the above-described exception.

(13) The Personal Income Tax Law conforms as of a specified date to federal income tax laws with respect to itemized deductions, including business deductions and items not deductible, except as specifically provided. The Corporation Tax Law does not conform to those federal income tax provisions, but specifically provides for deductions for purposes of that law.

Existing federal income tax laws disallow a deduction or credit for business expenses of a trade or business whose activities consist of trafficking specified controlled substances, including marijuana. For taxable years beginning on or after January 1, 2020, and before January 1, 2025, the Personal Income Tax Law does not conform to those federal income tax law provisions with respect to deductions.

This bill would extend the provisions of the Personal Income Tax Law that specifically do not conform to federal income tax law with respect to the above-referenced deductions through taxable years beginning before January 1, 2030.

(14) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax law, allow a deduction for qualified conservation contributions, as defined. Existing federal law, the Consolidated Appropriations Act, 2023, among other things, imposed limitations and reporting requirements upon the deduction for qualified conservation contributions. That act also made conforming changes relating to statute of limitations and penalties, as specified.

This bill, for contributions made on or after January 1, 2024, would conform state law to the above-referenced changes in federal law, except as provided, and would make additional conforming changes.

(15) Existing law authorizes the Franchise Tax Board to implement an alternative communication method that would allow the Franchise Tax Board to provide notification to the taxpayer in a preferred electronic communication method designated by the taxpayer that a specified notice, statement, bill, or other communication is available for viewing in the taxpayer's folder on the Franchise Tax Board's internet website, and would allow the taxpayer to file a protest, notification, and other communication to the Franchise Tax Board in a secure manner. This provision ceases to be operative and is repealed on January 1, 2025.

This bill would extend that provision indefinitely.

(16) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, provide for the postponement of certain tax-related deadlines in the case of a declared state of emergency. Under existing law, the Franchise Tax Board determines whether a taxpayer is affected by a state of emergency declared by the Governor.

This bill would instead require the Director of Finance to determine whether a taxpayer is affected by a state of emergency. The bill would require the above-described federal income tax laws, relating to the postponement of certain tax-related deadlines, to apply to an impacted taxpayer during an additional relief period that requests relief, as specified. The bill would define various terms for these purposes, including an impacted taxpayer to mean a taxpayer who, among other things, requests relief, as specified, and who is required, upon request, to submit supporting documentation related to the declared disaster, as provided. The bill would define supporting documentation to mean, among other things, a statement, signed under penalty of perjury, from a tax professional indicating the impacted taxpayer's books and records, as described, were destroyed in the disaster area or jurisdiction for which the Governor has proclaimed a state of emergency. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would authorize the Franchise Tax Board to adopt regulations that are

necessary or appropriate to implement these provisions, as specified. The bill would state that its provisions apply to any federally declared disaster or Governor-proclaimed state of emergency on or after the effective date of the bill.

(17) The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to enter an agreement for purposes of collecting delinquent accounts with respect to amounts assessed or imposed under those laws. Existing law requires the Franchise Tax Board to notify the Controller of its contracting costs under the above-described agreements, and requires the Controller to transfer that amount to the continuously appropriated Delinquent Tax Collection Fund for the purpose of reimbursing the Franchise Tax Board for its contracting costs.

This bill would repeal the provisions relating to reimbursement of the Franchise Tax Board for the above-described costs, and would terminate the Delinquent Tax Collection Fund, as of June 30, 2024.

(18) The Corporation Tax Law imposes taxes measured by net income on every corporation doing business within the limits of this state, subject to certain exceptions. In the case of a business with business income derived from or attributable to sources both within and without this state, existing law, the Uniform Division of Income for Tax Purposes Act, apportions the business income between this state and other states and foreign countries by multiplying the business income by the sales factor, except as provided. Existing law provides that certain amounts are not included in income for various reasons, including, but not limited to, exclusion, deduction, exemption, or nonrecognition. Under existing law, the Franchise Tax Board does not include in the apportionment formula amounts that do not give rise to apportionable income.

This bill would exclude from the apportionment formula any amount that does not give rise to apportionable income, consistent with existing law and practice of the Franchise Tax Board, as described above. This bill would make findings and declarations relating to the intent of the Legislature that the provisions of the bill are not a change in, but are declaratory of, existing law. The bill would apply these provisions to taxable years beginning before, on, or after the effective date of this bill.

(19) Existing law authorizes a one-time Better for Families Tax Refund payment to each qualified recipient, as defined, in an applicable amount, as specified. That law requires that each payment include an expiration date, and that any unexpended or unclaimed balance of the payments issued be returned to the state no later than May 31, 2026.

This bill would instead require any unexpended or unclaimed balance to be returned to the Franchise Tax Board, which will deposit the moneys in the General Fund.

(20) Existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, requires an owner of an underground storage tank, as defined, for which a permit is required by law to pay storage fees for each gallon of petroleum placed into the tank. The act establishes the Underground Storage Tank Cleanup Fund and requires the storage fees, among other moneys, to be deposited into the fund. The act authorizes the State Water Resources Control Board to expend the moneys in the fund, upon appropriation by the Legislature, to pay for corrective actions in response to unauthorized releases from underground storage tanks and for the cleanup and oversight of unauthorized releases at abandoned tank sites, among other specified purposes.

The act provides for the repeal of certain provisions on January 1, 2036, but also provides that certain associated rights, obligations, and authorities that apply before the January 1, 2036, repeal date do not terminate upon repeal of the other provisions of the act, such as the collection of unpaid fees by the California Department of Tax and Fee Administration for deposit into the fund, as specified.

This bill would additionally provide that the making of any refunds and effecting any credits, the disposition of the moneys collected, and the commencement of any action or proceeding regarding certain fees do not terminate upon repeal of the act. The bill would also provide that the payment of administrative costs of the department and certain refunds do not terminate upon repeal of the act, as specified.

(21) The bill would state that its provisions are severable.

(22) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $^{2}/_{3}$ of the membership of each house of the Legislature.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

(24) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.
Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 11340.9 of the Government Code is amended to read:

11340.9. This chapter does not apply to any of the following:

(a) An agency in the judicial or legislative branch of the state government.

(b) A legal ruling of counsel issued by the Franchise Tax Board, State Board of Equalization, or the California Department of Tax and Fee Administration.

(c) A form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued.

(d) A regulation that relates only to the internal management of the state agency.

(e) A regulation that establishes criteria or guidelines to be used by the staff of an agency in performing an audit, investigation, examination, or inspection, settling a commercial dispute, negotiating a commercial arrangement, or in the defense, prosecution, or settlement of a case, if disclosure of the criteria or guidelines would do any of the following:

(1) Enable a law violator to avoid detection.

(2) Facilitate disregard of requirements imposed by law.

(3) Give clearly improper advantage to a person who is in an adverse position to the state.

(f) A regulation that embodies the only legally tenable interpretation of a provision of law.

(g) A regulation that establishes or fixes rates, prices, or tariffs.

(h) A regulation that relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the regulation determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

(i) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

SEC. 2. Section 25299.81 of the Health and Safety Code is amended to read:

25299.81. (a) Except as provided in subdivisions (b) and (c), this chapter shall remain in effect only until January 1, 2036, and as of that date is repealed.

(b) Notwithstanding subdivision (a), this section, Article 1 (commencing with Section 25299.10), Article 2 (commencing with Section 25299.11), and Article 4 (commencing with Section 25299.36) shall not be repealed and shall remain in effect on January 1, 2036.

(c) The repeal of certain portions of this chapter does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out these rights and obligations:

(1) The filing and payment of claims against the fund, including the costs specified in subdivisions (c), (e), and (h) of Section 25299.51, claims filed under Section 25299.50.3, and claims for commingled plumes, as specified in Article 11 (commencing with Section 25299.90), until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 2036, due and payable to the board.

(3) The recovery of moneys reimbursed to a claimant to which the claimant is not entitled, or the resolution of any cost recovery action.

(4) The collection of unpaid fees by the California Department of Tax and Fee Administration pursuant to the Underground Storage Tank Maintenance Fee Law (Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code) that are imposed pursuant to Article 5 (commencing with Section 25299.40), as that article read on December 31, 2035, or have become due before January 1, 2036, including any interest or penalties that accrue before, on, or after January 1, 2036, associated with those unpaid fees, the making of any refunds and effecting of any credits, the disposition of the moneys

collected, and the commencement of any action or proceeding regarding fees imposed pursuant to Article 5 (commencing with Section 25299.40).

(5) The payment for the administrative costs of the California Department of Tax and Fee Administration pursuant to subdivision (b) of Section 25299.51 and refunds pursuant to subdivision (g) of Section 25299.51.

(6) (A) The filing of an application for funds from, and the making of payments from, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund pursuant to Section 25299.50.2, any action for the recovery of moneys paid pursuant to Section 25299.50.2 to which the recipient is not entitled, and the resolution of that cost recovery action.

(B) Upon liquidation of funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, the obligation to make a payment from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is terminated.

(7) (A) The payment of loans and grants, consistent with the terms of agreements that were effective before January 1, 2036, from the fund pursuant to this chapter or the Petroleum Underground Storage Tank Financing Account pursuant to Chapter 6.76 (commencing with Section 25299.100). Upon exhaustion of the fund, any remaining claims for payment of grants or loans shall be invalid.

(B) The amount of money disbursed for grants and loans pursuant to Chapter 6.76 (commencing with Section 25299.100) shall not exceed the sum of the following:

(i) The amount that reverts to the fund pursuant to Section 25299.111.

(ii) Amounts recovered through the repayment of loans granted pursuant to Chapter 6.76 (commencing with Section 25299.100).

(iii) The resolution of any cost recovery action filed before January 1, 2036, or the initiation of an action or other collection process to recover defaulted loan moneys due to the board or to recover money paid to a grant or loan recipient pursuant to Chapter 6.76 (commencing with Section 25299.100) to which the recipient is not entitled.

(8) (A) The imposition and collection of civil liability pursuant to Article 7 (commencing with Section 25299.70), as that article read on December 31, 2035.

(B) Subparagraph (A) shall not be construed as extending or modifying any applicable statute of limitations.

(d) The board shall continuously post and update on its internet website, but at a minimum, annually on or before September 30, information that describes the status of the fund and shall make recommendations, when appropriate, to improve the efficiency of the program.

SEC. 3. Section 42882 of the Public Resources Code is repealed.

SEC. 4. Section 42885 of the Public Resources Code, as amended by Section 20 of Chapter 355 of the Statutes of 2022, is amended to read:

42885. (a) For purposes of this section, “California tire fee” means the fee imposed pursuant to this section.

(b) (1) A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents ($1.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain $1^1/_2$ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The California Department of Tax and Fee Administration shall collect the fee imposed by this article pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)) of Division 2 of the Revenue and Taxation Code. For purposes of this section, the reference in the Fee Collection Procedures Law to “feepayer” shall include a person required to pay the fee imposed by this section, which includes the retail seller.

(d) The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) A person or business who knowingly, or with reckless disregard, makes a false statement or representation in a document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars ($25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the department may impose an administrative penalty in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on a person who intentionally or negligently violates a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The department shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, “new tire” means a pneumatic or solid tire intended for use with onroad or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. “New tire” does not include retreaded, reused, or recycled tires.

(h) The California tire fee shall not be imposed on a tire sold with, or sold separately for use on, any of the following:

(1) A self-propelled wheelchair.

(2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person’s physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall remain in effect only until January 1, 2034, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2034, deletes or extends that date.

SEC. 5. Section 42885 of the Public Resources Code, as amended by Section 21 of Chapter 355 of the Statutes of 2022, is amended to read:

42885. (a) For purposes of this section, “California tire fee” means the fee imposed pursuant to this section.

(b) (1) Every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of seventy-five cents ($0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The California Department of Tax and Fee Administration shall collect the fee imposed by this article pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)) of Division 2 of the Revenue and Taxation Code. For purposes of this section, the reference in the Fee Collection Procedures Law to “feepayer” shall include a person required to pay the fee imposed by this section, which includes the retail seller.

(d) The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars ($25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the department may impose an administrative penalty in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The department shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, “new tire” means a pneumatic or solid tire intended for use with onroad or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. “New tire” does not include retreaded, reused, or recycled tires.

(h) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

(1) Any self-propelled wheelchair.

(2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person’s physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall become operative on January 1, 2034.

SEC. 6. Section 42886.1 of the Public Resources Code is amended to read:

42886.1. (a) The California Department of Tax and Fee Administration, if it deems it necessary in order to ensure payment to or facilitate the collection by the state of the amount of fees, may require returns and payment of the amount of fees for a yearly period.

(b) On or before the 15th day of the month following each designated yearly period, a return for the preceding designated yearly period shall be filed with the California Department of Tax and Fee Administration in the form as the California Department of Tax and Fee Administration may prescribe.

SEC. 7. Section 42889 of the Public Resources Code, as amended by Section 22 of Chapter 355 of the Statutes of 2022, is amended to read:

42889. (a) All revenues, interest, and penalties derived from the California Tire Fee, less refunds and reimbursement to the California Department of Tax and Fee Administration for expenses incurred in the administration and collection of the fee imposed by this article, shall be deposited as follows:

(1) An amount equal to seventy-five cents ($0.75) per tire on which the fee is imposed shall be in the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(2) The remaining moneys collected pursuant to Section 42885 shall be deposited in the California Tire Recycling Management Fund to fund the waste tire program, and shall be appropriated to the department in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the department. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(A) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(B) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(C) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The department shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the department designates a local entity for that purpose, the department shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The department may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(D) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the department. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the department during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(E) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(F) To assist in developing markets and new technologies for used tires and waste tires. The department's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(G) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(H) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars ($1,000,000).

(I) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(J) To fund border region activities specified in paragraph (8) of subdivision (b) of Section 42885.5.

(K) For expenditure pursuant to paragraph (3) of subdivision (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

(b) This section shall remain in effect only until January 1, 2034, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2034, deletes or extends that date.

SEC. 8. Section 42889 of the Public Resources Code, as amended by Section 23 of Chapter 355 of the Statutes of 2022, is amended to read:

42889. (a) All revenues, interest, and penalties derived from the California tire fee, less refunds and reimbursement to the California Department of Tax and Fee Administration for expenses incurred in the administration and collection of the fee imposed by this article, shall be deposited in the California Tire Recycling Management Fund in the State Treasury. Funding for the waste tire program shall be appropriated to the department in the annual Budget Act. The moneys in the fund shall be expended for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(3) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The department shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the department designates a local entity for that purpose, the department shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The department may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(4) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the department. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the department during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(5) To fund border region activities specified in paragraph (8) of subdivision (b) of Section 42885.5.

(6) For expenditure pursuant to paragraph (3) of subdivision (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

(b) This section shall become operative on January 1, 2034.

SEC. 9. Section 6055 of the Revenue and Taxation Code is amended to read:

6055. (a) (1) A retailer is relieved from liability for sales tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the tax may, under rules and regulations prescribed by the department, take as a deduction the

amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the tax shall be paid with the return.

(2) (A) Before January 1, 2025, for purposes of this subdivision, the term “retailer” shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.

(B) An entity that is a retailer under this paragraph shall not be entitled to a deduction under paragraph (1) on or after January 1, 2025.

(b) (1) In the case of accounts held by a lender, a retailer or lender that makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:

(A) A deduction was not previously claimed or allowed on any portion of the accounts.

(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a) before January 1, 2025.

(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.

(D) The retailer remitted the tax on or after January 1, 2000.

(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the department.

(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.

(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the department in accordance with Section 6451.

(3) For purposes of this subdivision, the term “lender” means any of the following:

(A) Any person that holds a retail account which that person purchased directly from a retailer who reported the tax.

(B) Any person that holds a retail account pursuant to that person’s contract directly with the retailer that reported the tax.

(C) Any person that is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).

(4) For purposes of this section, a “proper election” shall be established when the retailer that reported the tax and the lender prepare and retain an election form, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is prepared and retained by the retailer and the lender.

(c) This section shall remain operative until January 1, 2028, and as of that date is repealed.

SEC. 10. Section 6055 is added to the Revenue and Taxation Code, to read:

6055. (a) A retailer is relieved from liability for sales tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the tax shall be paid with the return.

(b) This section shall become operative on January 1, 2028.

SEC. 11. Section 6203.5 of the Revenue and Taxation Code is amended to read:

6203.5. (a) (1) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A

retailer that has previously paid the amount of the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the amount of the tax shall be paid with the return.

(2) (A) Before January 1, 2025, for purposes of this subdivision, the term “retailer” shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.

(B) An entity that is a retailer under this paragraph shall not be entitled to a deduction under paragraph (1) on or after January 1, 2025.

(b) (1) In the case of accounts held by a lender, a retailer or lender that makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:

(A) A deduction was not previously claimed or allowed on any portion of the accounts.

(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a) before January 1, 2025.

(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.

(D) The retailer remitted the tax on or after January 1, 2000.

(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the department.

(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.

(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the department in accordance with Section 6451.

(3) For purposes of this subdivision, the term “lender” means any of the following:

(A) Any person that holds a retail account which that person purchased directly from a retailer who reported the tax.

(B) Any person that holds a retail account pursuant to that person’s contract directly with the retailer that reported the tax.

(C) Any person that is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).

(4) For purposes of this section, a “proper election” shall be established when the retailer that reported the tax and the lender prepare and retain an election form, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is prepared and retained by the retailer and the lender.

(c) This section shall remain operative until January 1, 2028, and as of that date is repealed.

SEC. 12. Section 6203.5 is added to the Revenue and Taxation Code, to read:

6203.5. (a) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the amount of the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the amount of the tax shall be paid with the return.

(b) This section shall become operative on January 1, 2028.

SEC. 13. 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, paragraph (19) of subdivision (b) of Section 17053.98 or 23698, or paragraph (20) of subdivision (b) of Section 17053.98.1 or 23698.1.

(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, subdivision (c) of Section 23698, or subdivision (c) of Section 23698.1.

(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, 17053.98.1, 23685, 23695, 23698, or 23698.1, 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, in paragraph (14) of subdivision (b) of Section 17053.98 or 23698, or in paragraph (15) of subdivision (b) of Section 17053.98.1 or Section 23698.1.

(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, 17053.98.1, 23685, 23695, 23698, or 23698.1, 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, 23698, or 23698.1, 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, 23698, or subparagraph (C) of paragraph (3) of subdivision (g) of Section 17053.98.1 or 23698.1.

(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, 17053.98.1, 23685, 23695, 23698, or 23698.1 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.

(C) 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, 2024, and before January 1, 2027, 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 and, for those amounts that are in excess of five million dollars ($5,000,000) for that taxable year, subdivision (g) 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, and for a taxable year beginning on or after January 1, 2024, and before January 1, 2027, 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) (1) Notwithstanding subdivision (d) and paragraph (1) of subdivision (e), the total amount of refunds or credit offsets claimed under subdivision (d) and paragraph (1) of subdivision (e) 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, 2024, and before January 1, 2027, shall not exceed five million dollars ($5,000,000). 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, 2024, and before January 1, 2027, that are in excess of five million dollars ($5,000,000) for that taxable year, both of the following shall apply:

(A) 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 2024, 2025, and 2026 calendar years. The total amount of refunds or credit offsets claimed under this paragraph, subdivision (d) of Section 6902.5, and paragraph (1) of subdivision (e) of Section 6902.5 shall not exceed five million dollars ($5,000,000) in each of the 2024, 2025, and 2026 calendar years for each claimant.

(B) 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, 2027.

(2) For purposes of this subdivision, “claimant” means a qualified taxpayer together with its affiliates.

(h) 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.

(i) 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, Section 23698 pursuant to subdivision (c) of Section 23698, or Section 23698.1 pursuant to subdivision (c) of Section 23698.1, 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.

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

(k) The amendments made to this section by Chapter 8 of the Statutes of 2020 shall not apply to irrevocable elections made before the operative date of the act adding this subdivision.

(l) The amendments made to this section by Chapter 3 of the Statutes of 2022 shall apply to irrevocable elections made on and after June 29, 2020.

(m) 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 section.

SEC. 14. Section 7103 of the Revenue and Taxation Code is amended to read:

7103. (a) For purposes of this section:

(1) “City” means a city within the geographic boundaries of a county.

(2) “Confirmed historic venue” means a historic venue that has received a confirmation by the department pursuant to subdivision (g).

(3) “County” means the County of Alameda, the County of Santa Clara, and the County of Los Angeles.

(4) “Fund” means the Historic Venue Restoration and Resiliency Fund created pursuant to subdivision (c).

(5) “Historic venue” means a venue in the state that meets all of the following criteria:

(A) The venue meets any of the following criteria:

(i) The venue contains a structure built before 1940.

(ii) The venue contains a structure officially designated by the United States National Park Service or the United States Department of the Interior as a National Historic Landmark.

(iii) The venue is located at a site continuously used for live, ticketed events for more than 50 years.

(B) The venue has total fixed seating capacity of at least 15,000 people.

(C) The venue hosts live entertainment or sporting events.

(D) The venue is owned by a public entity.

(6) “Qualified event” means a live event at a confirmed historic venue to which tickets are offered for public sale.

(b) Notwithstanding any other law, a return filed with the department to report gross receipts for sales tax purposes shall, for each confirmed historic venue, segregate the taxable sales made at a qualified event on a line or a separate form, as prescribed by the department, if the place of sale in this state is on or within the real property of a confirmed historic venue on the day of a qualified event that occurred on or before June 30, 2029.

(c) (1) The Historic Venue Restoration and Resiliency Fund is hereby created in the State Treasury.

(2) Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated without regard to fiscal year and allocated pursuant to subdivisions (e) and (f).

(d) (1) The department shall, for each confirmed historic venue, report the total amount of taxable sales made at a qualified event that were segregated on the returns filed for the prior fiscal year pursuant to subdivision (b) to the Department of Finance on or before November 1 of each year.

(2) (A) The total taxable sales made at a qualified event that were reported pursuant to paragraph (1) shall be subject to review, which may be a review of a sample of returns, by the department for errors.

(B) The department shall note any errors identified in the review and the approximate impact of those errors on the total taxable sales made at a qualified event that were in the report to the Department of Finance required by this subdivision to allow an adjusted total taxable sales amount to be determined.

(e) (1) An amount equal to 5 percent of the total amount of taxable sales, or adjusted taxable sales, for the prior fiscal year reported to the Department of Finance by the department pursuant to subdivision (d) shall be included in the next annual Governor's Budget for deposit into the fund for the Controller to allocate to cities and counties pursuant to subdivision (f).

(2) (A) No later than 15 days after enactment of the annual Budget Act, the Department of Finance shall, for each confirmed historic venue located within the geographic boundaries of a city or county, report to the Controller the amounts to be allocated from the fund to each city and county.

(B) The amounts to be allocated pursuant to subparagraph (A) to each city and county shall be in proportion to the taxable sales subject to subdivision (b) derived from qualified events at each confirmed historic venue identified by that city or county.

(3) No later than 30 days after the enactment of the annual Budget Act, the amount appropriated by the Legislature to the Controller pursuant to this subdivision shall be transferred by the Controller to the fund.

(f) (1) Beginning January 1, 2025, the Controller shall annually allocate, as promptly as feasible, the moneys in the fund to each city or county pursuant to the report required by paragraph (2) of subdivision (e).

(2) (A) A city or county shall distribute funds received pursuant to this subdivision only for any of the following purposes and pursuant to subparagraph (B):

(i) Capital infrastructure improvements and preservation of a confirmed historic venue.

(ii) Preventive maintenance of a confirmed historic venue related to patrons safety.

(iii) Technological improvements at a confirmed historic venue.

(iv) Security enhancements at a confirmed historic venue.

(v) Bringing a confirmed historic venue into compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(vi) Energy efficiency improvements at a confirmed historic venue.

(vii) Upgrades related to implementation of federal and state policies at a confirmed historic venue.

(B) A city or county shall distribute funds to each confirmed historic venue within the geographic boundaries of that city or county in accordance with the amounts allocated by the Controller for that purpose pursuant to paragraph (1).

(g) (1) (A) A city or county shall identify a historic venue within its jurisdiction to the department, in a form and manner prescribed by the department, for a confirmation as a historic venue.

(B) (i) Subject to clause (ii), if the venue identified pursuant to subparagraph (A) is a historic venue, the department shall issue a confirmation to the city or county as promptly as feasible.

(ii) The department shall not issue a confirmation pursuant to clause (i) if a city or county is currently receiving revenue transmitted pursuant to subdivision (f) with respect to the historic venue.

(2) A city or county, or its designee, that receives a confirmation from the department pursuant to paragraph (1) shall, at least 10 days before a qualified event scheduled to take place at a confirmed historic venue within the geographic boundaries of that city or county, notify any retailers subject to subdivision (b) that the city or county, or its designee, knows, or has reason to know, will be making sales during that qualified event of their reporting obligation pursuant to subdivision (b).

(h) On or before November 1 of each year, the department shall deliver a report to the Assembly Committee on Revenue and Taxation and the Senate Committee on Governance and Finance concerning both of the following:

(1) The identity of any confirmed historic venue and the city or county that identified that venue pursuant to subdivision (g).

(2) (A) The amount of revenue allocated in the preceding fiscal year pursuant to this section to a city or county with respect to each confirmed historic venue.

(B) On or before September 1 of each year, the Controller shall provide to the department the information required to be included in the report pursuant to subparagraph (A).

(i) This section shall remain operative only until November 1, 2030, and as of that date is repealed.

SEC. 15. Section 17039.4 is added to the Revenue and Taxation Code, to read:

17039.4. (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, 2024, and before January 1, 2027, 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, 2024, and before January 1, 2027, 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 17052.2 (relating to credit for foster youth).

(4) The credit allowed by Section 17052.6 (relating to credit for household and dependent care).

(5) The credit allowed by Section 17052.10 (relating to the elective tax under the Small Business Relief Act).

(6) The credit allowed by Section 17052.25 (relating to credit for adoption costs).

(7) The credit allowed by Section 17053.5 (relating to renter's tax credit).

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

(9) 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).

(10) The credit allowed by Section 17054.7 (relating to credit for qualified senior head of household).

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

(12) 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.

SEC. 16. Section 17052.1 of the Revenue and Taxation Code is amended to read:

17052.1. (a) (1) For each taxable year beginning on or after January 1, 2019, there shall be allowed against the "net tax," as defined by Section 17039, a young child tax credit to a qualified taxpayer, in an amount as determined under paragraph (2).

(2) (A) (i) The amount of the young child tax credit shall be equal to one thousand one hundred seventy-six dollars ($1,176), multiplied by the earned income tax credit adjustment factor for the taxable year as specified for in Section 17052.

(ii) The amount of the young child tax credit specified under clause (i) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(B) The young child tax credit allowable in any taxable year to any qualified taxpayer shall be limited to the maximum amount specified in clause (i) of subparagraph (A) as recomputed under clause (ii) of subparagraph (A).

(C) (i) The young child tax credit shall be reduced by twenty dollars ($20) for each one hundred dollars ($100), or fraction thereof, by which the qualified taxpayer's earned income, as defined in Section 17052, exceeds the "threshold amount." For purposes of this section, the "threshold amount" shall be twenty-five thousand dollars ($25,000).

(ii) (I) For each taxable year beginning on or after January 1, 2022, and before January 1, 2023, the twenty dollars ($20) in clause (i) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041, except that the resulting products shall be rounded off to the nearest cent.

(II) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, and before January 1, 2024, the amount calculated under subclause (I) shall substitute for the twenty dollars ($20) in clause (i).

(III) The Franchise Tax Board shall calculate a graduated reduction amount in such a manner that, for a qualified taxpayer with earned income of one dollar ($1) or more in excess of the maximum earned income that results in a credit amount greater than zero dollars ($0) pursuant to Section 17052, the amount of the credit under this section is equal to zero. For taxable years beginning on or after January 1, 2024, the graduated reduction amount calculated pursuant to this subclause shall be substituted for the twenty dollars ($20) in clause (i).

(iii) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the "threshold amount" in this subparagraph shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(D) The young child tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the credit allowed under Section 17052.

(b) (1) "Qualified taxpayer" means an eligible individual who has at least one qualifying child and who satisfies either of the following:

(A) Has been allowed a tax credit under Section 17052.

(B) Meets all of the following requirements:

(i) Would otherwise have been allowed a tax credit under Section 17052, but has earned income, as defined in Section 32(c)(2) of the Internal Revenue Code, as modified by Section 17052, of zero dollars ($0) or less.

(ii) Does not have net losses in excess of thirty thousand dollars ($30,000) in the taxable year.

(iii) Does not have wages, salaries, tips, and other employee compensation in excess of thirty thousand dollars ($30,000) in the taxable year.

(2) For each taxable year beginning on or after January 1, 2022, the amounts specified under clauses (ii) and (iii) of subparagraph(B) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(c) "Qualifying child" shall have the same meaning as under Section 17052, except that the child shall be younger than six years of age as of the last day of the taxable year.

(d) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. 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 rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(e) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the qualified taxpayer.

(f) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(g) (1) In accordance with Section 41, the purpose of the Young Child Tax Credit is to reduce poverty among California's poorest working families and young children. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

(A) The number of tax returns claiming the credit.

(B) The number of qualifying children represented on tax returns claiming the credit.

(C) The average credit amount on tax returns claiming the credit.

(2) The Franchise Tax Board shall provide the written report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(h) The Legislature finds and declares that, to the extent they are otherwise qualified for a credit under this section, undocumented persons are eligible for the tax credit authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(i) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2022, except as provided in subparagraph (C) of paragraph (2) of subdivision (a).

SEC. 17. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) (1) For each taxable year beginning on or after January 1, 2022, there shall be allowed against the "net tax," as defined by Section 17039, a foster youth tax credit to a qualified taxpayer, in an amount as determined under paragraph (2).

(2) (A) The amount of the foster youth tax credit shall be equal to one thousand one hundred seventy-six dollars ($1,176), multiplied by the earned income tax credit adjustment factor for the taxable year, as specified in Section 17052.

(B) For taxable years beginning on or after January 1, 2022, the amount in subparagraph (A) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(C) (i) The foster youth tax credit shall be reduced by twenty dollars ($20) for each one hundred dollars ($100), or fraction thereof, by which the qualified taxpayer's earned income, as defined in Section 17052, exceeds the threshold amount.

(ii) (I) For taxable years beginning on or after January 1, 2022, and before January 1, 2023, the twenty dollars ($20) in clause (i) shall be recomputed in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041, except that for purposes of this clause, subparagraph (B) of paragraph (2) of subdivision (h) of Section 17041 shall be modified by substituting "nearest cent" for "nearest one dollar ($1)."

(II) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, and before January 1, 2024, the amount calculated under subclause (I) shall substitute for the twenty dollars ($20) in clause (i).

(III) The Franchise Tax Board shall calculate a graduated reduction amount in such a manner that, for a qualified taxpayer with earned income of one dollar ($1) or more in excess of the maximum earned income that results in a credit amount greater than zero dollars ($0) pursuant to Section 17052, the amount of the credit under this section is equal to zero. For taxable years beginning on or after January 1, 2024, the graduated reduction amount calculated pursuant to this subclause shall be substituted for the twenty dollars ($20) in clause (i).

(iii) For taxable years beginning after the taxable year in which the minimum wage, as defined in paragraph (1) of subdivision (b) of Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the threshold amount shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(b) The foster youth tax credit authorized by this section shall only be operative for taxable years for which resources are authorized in the annual Budget Act for the Franchise Tax Board to oversee and audit returns associated with the earned income tax credit allowed under Section 17052.

(c) For purposes of this section, the following definitions shall apply:

(1) “Qualified taxpayer,” means an individual who satisfies all of the following:

(A) Has been allowed a tax credit under Section 17052 for the taxable year.

(B) Is 18 to 25 years of age, inclusive, as of the last day of the taxable year.

(C) Was in foster care while 13 years of age or older in an AFDC-FC placement, as described in Section 11402 of the Welfare and Institutions Code, including a tribally approved home, as defined in subdivision (r) of Section 224.1 of the Welfare and Institutions Code, or Approved Relative Caregiver Funding Program eligible placement, as described in Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, by a Title IV-E agency, pursuant to a voluntary placement agreement or a juvenile court order.

(2) “Threshold amount” shall be twenty-five thousand dollars ($25,000).

(3) “Title IV-E agency” means either of the following:

(A) A county child welfare agency or probation department that administers foster care placements under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code).

(B) An Indian tribe, tribal organization, or tribal consortium located in California or with lands that extend into the state that has an agreement with the State Department of Social Services pursuant to Section 10553.1 of the Welfare and Institutions Code to administer foster care placement under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter IV of Chapter 7 of Title 42 of the United States Code).

(d) (1) As provided for in Section 10850.8 of the Welfare and Institutions Code, and subject to federal approvals or waivers, the State Department of Social Services shall provide to the Franchise Tax Board the data regarding a qualified taxpayer placed by a Title IV-E agency that may be necessary to verify that an individual qualifies for the foster youth tax credit. The data provided shall remain confidential and shall be used only for purposes directly connected with the foster youth tax credit.

(2) In the event federal approval or waivers pursuant to paragraph (1) are not provided, the Franchise Tax Board and the State Department of Social Services shall explore alternative methods to verify foster care status for individuals described in paragraph (1) of subdivision (c) in a manner consistent with state and federal law.

(3) The State Department of Social Services shall seek all appropriate federal waivers or approvals for the implementation of this subdivision as necessary. This subdivision shall be implemented only if necessary federal waivers or approvals are granted.

(e) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section.

(2) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(3) 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, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the qualified taxpayer.

(g) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(h) Notwithstanding any other law, the payment authorized pursuant to this section 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 such 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 (g). 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.

(i) The Legislature finds and declares that, to the extent they are otherwise qualified for a credit under this section, undocumented persons are eligible for the tax credit authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

(j) (1) In accordance with Section 41, the purpose of the Foster Care Tax Credit is to reduce poverty among California's young adults who have been in the foster care program. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

(A) The number of tax returns claiming the credit.

(B) The average credit amount on tax returns claiming the credit.

(2) The Franchise Tax Board shall provide the written report, in compliance with Section 9795 of the Government Code, to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(3) The disclosure provisions of this subdivision shall be treated as an exception to Section 19542 under Article 2 (commencing with 19542) of Chapter 7 of Part 10.2.

SEC. 18. Section 17052.8 of the Revenue and Taxation Code is amended to read:

17052.8. For each taxable year beginning on or after January 1, 1996, and before January 1, 2024, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount determined as follows:

(a) (1) (A) The amount of the credit shall be equal to one-third of the federal credit computed in accordance with Section 43 of the Internal Revenue Code.

(B) If a taxpayer elects, under Section 43(e) of the Internal Revenue Code, not to apply Section 43 for federal tax purposes, this election is binding and irrevocable for state purposes, and for purposes of subparagraph (A), the federal credit shall be zero.

(2) "Qualified enhanced oil recovery project" shall include only projects located within California.

(3) The credit allowed under this subdivision shall not be allowed to any taxpayer for whom a depletion allowance is not permitted to be computed under Section 613 of the Internal Revenue Code by reason of paragraphs (2), (3), or (4) of subsection (d) of Section 613A of the Internal Revenue Code.

(b) Section 43(d) of the Internal Revenue Code shall apply.

(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" for the succeeding 15 years.

(d) In the case where property which qualifies as part of the taxpayer's "qualified enhanced oil recovery costs" also qualifies for a credit under any other section in this part, the taxpayer shall make an election on its original return as to which section applies to all costs allocable to that item of qualified property. Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(e) No deduction shall be allowed as otherwise provided in this part for that portion of any costs paid or incurred for the taxable year which is equal to the amount of the credit allowed under this section attributable to those costs.

(f) The basis of any property for which a credit is allowed under this section shall be reduced by the amount of the credit attributable to the property. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(g) No credit may be claimed under this section with respect to any amount for which any other credit has been claimed under this part.

(h) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

SEC. 19. Section 17209 of the Revenue and Taxation Code is amended to read:

17209. (a) For each taxable year beginning on or after January 1, 2020, and before January 1, 2030, Section 280E of the Internal Revenue Code, relating to expenditures in connection with the illegal sale of drugs, shall not apply to the carrying on of any trade or business that is commercial cannabis activity by a licensee.

(b) For purposes of this section, “commercial cannabis activity” and “licensee” shall have the same meanings as set forth in Division 10 (commencing with Section 26000) of the Business and Professions Code.

(c) This section shall remain in effect only until December 1, 2030, and as of that date is repealed.

SEC. 20. Section 17260 of the Revenue and Taxation Code is amended to read:

17260. (a) No deduction, other than depreciation, shall be allowed for expenditures for tertiary injectants as provided by Section 193 of the Internal Revenue Code.

(b) Section 263(a) of the Internal Revenue Code shall not apply to expenditures for which a deduction is allowed under Section 17266 or 17267.2.

(c) Section 263(c) of the Internal Revenue Code, relating to intangible drilling and development costs in the case of oil and gas wells and geothermal wells, shall not apply to intangible drilling and development costs, in the case of oil and gas wells, paid or incurred on or after January 1, 2024.

SEC. 21. Section 17275.5 of the Revenue and Taxation Code is amended to read:

17275.5. (a) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(b) Section 170(f)(10)(F) of the Internal Revenue Code, relating to excise tax on premiums paid, shall not apply.

(c) The provisions of Section 170(f)(11)(E) of the Internal Revenue Code, relating to qualified appraisal and appraiser, shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

(d) Section 170(f)(13) of the Internal Revenue Code, relating to contributions of certain interests in buildings located in registered historic districts, shall not apply.

(e) Section 170(f)(18) of the Internal Revenue Code, relating to contributions to donor advised funds, shall not apply.

(f) For contributions made on or after January 1, 2024, the amendments made by Section 605(b) of Public Law 117-328 adding paragraph (19) to Section 170(f) of the Internal Revenue Code, relating to certain qualified conservation contributions, shall apply.

SEC. 22. Section 17275.6 is added to the Revenue and Taxation Code, to read:

17275.6. (a) For contributions made on or after January 1, 2024, the amendments made by Section 605(a)(1) of Public Law 117-328 adding paragraph (7) to Section 170(h) of the Internal Revenue Code, relating to limitation on deduction for qualified conservation contributions made by passthrough entities, shall apply, except as otherwise provided.

(b) Section 170(h)(7)(G) of the Internal Revenue Code, relating to regulations, as added by Section 605(a)(1) of Public Law 117-328, shall not apply.

(c) For contributions made on or after January 1, 2024, the amendments made by Section 605(a)(3) of Public Law 117-328, relating to extension of statute of limitations for listed transactions, shall apply and are modified by substituting “Section 19755” for “sections 6501(c)(10) and 6235(c)(6) of such Code.”

(d) Section 605(d)(2) of Public Law 117-328, relating to opportunity to correct, shall apply.

SEC. 23. Section 17276.24 is added to the Revenue and Taxation Code, to read:

17276.24. (a) Notwithstanding Sections 17276, 17276.1, 17276.4, 17276.7, and 17276.22, Sections 17276.2, 17276.5, and 17276.6, as those sections read on November 29, 2014, Section 17276.20, as that section read on December 31, 2015, 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, 2024, and before January 1, 2027.

(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, 2025, and before January 1, 2026.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2024, and before January 1, 2025.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2024.

(c) For a taxable year beginning on or after January 1, 2024, and before January 1, 2027, this section shall not apply to a taxpayer that has either of the following:

(1) Net business income of less than one million dollars ($1,000,000) for the taxable year.

(2) 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.

SEC. 24. Section 17681 of the Revenue and Taxation Code is amended to read:

17681. (a) Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to natural resources, shall apply, except as otherwise provided.

(b) For taxable years beginning on or after January 1, 2024, Section 613(b)(2)(B) of the Internal Revenue Code, in the case of oil shale, shall not apply.

(c) For taxable years beginning on or after January 1, 2024, Section 613(b)(4) of the Internal Revenue Code, relating to 10 percent, in the case of coal, shall not apply.

(d) For taxable years beginning on or after January 1, 2024, Section 613A of the Internal Revenue Code, relating to limitations on percentage depletion in the case of oil and gas wells, shall not apply.

SEC. 25. Section 17681.3 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 17681.6 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 18416.5 of the Revenue and Taxation Code is amended to read:

18416.5. (a) The Franchise Tax Board may, by regulation, implement an alternative communication method that would allow the Franchise Tax Board, at the request of the taxpayer or the taxpayer’s authorized representative, to provide notification to the taxpayer in a preferred electronic communication method designated by the taxpayer that a notice, statement, bill, or other communication required or authorized under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with

Section 23001) is available for viewing in the taxpayer's limited access secure folder on the Franchise Tax Board's internet website and would allow the taxpayer or the taxpayer's authorized representative to file a protest, notification, and other communication to the Franchise Tax Board in a secure manner. Prior to obtaining the consent of a taxpayer to participate in the alternative communication method authorized by this section, the Franchise Tax Board shall advise the taxpayer or the taxpayer's authorized representative of the ramifications of electing to receive notifications from the Franchise Tax Board in the manner selected and of failing to take appropriate action in response to one or more of those notifications.

(b) Sending electronic notification to a taxpayer or the taxpayer's authorized representative pursuant to the taxpayer's request made in accordance with regulations authorized under subdivision (a) shall not be considered a violation of Section 19542 or 19542.1. Any electronic notification provided to a taxpayer using the alternative communication method authorized by this section shall include plain language advising the taxpayer that a failure to act may cause the taxpayer to forego procedural or administrative rights to challenge the proposed action.

(c) Notwithstanding any other law regarding the use of United States mail, any notice, statement, bill, protest, and other communication from the Franchise Tax Board to a taxpayer or the taxpayer's authorized representative and from a taxpayer or the taxpayer's authorized representative to the Franchise Tax Board pursuant to the alternative communication method authorized by this section shall be treated as if it were mailed by United States mail, postage prepaid.

SEC. 28. Section 18572 of the Revenue and Taxation Code is amended to read:

18572. (a) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax-related deadlines, shall apply, except as otherwise provided.

(b) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax-related deadlines, shall apply to a taxpayer determined by the Director of Finance to be affected by a state of emergency declared by the Governor.

(c) Notwithstanding any other provision of law, the postponement of certain tax-related deadlines under this section shall be determined by the Director of Finance.

(d) (1) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax-related deadlines, shall apply to an impacted taxpayer, during an additional relief period, that requests relief pursuant to this section.

(2) For purposes of this subdivision, the following definitions shall apply:

(A) "Additional relief period" means the period beginning on the date the state postponement period expires, if any, and ending on the date the federal postponement period expires.

(B) "Federal postponement period" means the postponement period as defined in Section 301.7508A-1(d)(3) of Title 26 of the Code of Federal Regulations.

(C) "Impacted taxpayer" means a taxpayer that meets both of the following:

(i) Otherwise qualifies for relief under subdivision (a) or (b), but did not file their California tax return or make payments of tax or fee, as required under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, before the expiration of the state postponement period.

(ii) Requests relief pursuant to this section in the form and manner prescribed by the Franchise Tax Board and shall, upon request, submit supporting documentation related to the declared disaster, pursuant to this section.

(D) "State postponement period" means the postponement period determined by the Director of Finance pursuant to subdivision (c).

(E) "Supporting documentation" means any of the following:

(i) A letter from the Federal Emergency Management Agency that approves assistance to the impacted taxpayer pursuant to the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Sec. 5121 et seq.).

(ii) A determination of award letter from the Small Business Administration disaster loan program that approves assistance to the impacted taxpayer.

(iii) A statement, signed under penalty of perjury, from a tax professional indicating the impacted taxpayer's books and records that are necessary to meet a tax deadline were destroyed in the disaster area or jurisdiction for which the Governor has proclaimed a state of emergency.

(iv) A law enforcement report issued to the impacted taxpayer, related to theft or looting due to lawlessness occurring during the disaster or emergency and in the disaster area or jurisdiction for which the Governor proclaimed a state of

emergency.

(v) An insurance claim submitted by or on behalf of the impacted taxpayer, related to the disaster or conditions of emergency.

(vi) Verification of disaster relief related to housing assistance, property damage, employment, public health, mortgage assistance, or business operation received from a government entity, banking institution, or organization described in Section 501(c)(3) of the Internal Revenue Code.

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

(2) 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.

(f) The amendments made to this section by the act adding this subdivision shall apply to any federally declared disaster or Governor-proclaimed state of emergency on or after the effective date of the act adding this subdivision.

SEC. 29. Section 19164 of the Revenue and Taxation Code is amended to read:

19164. (a) (1) (A) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with Section 6662 of the Internal Revenue Code, relating to imposition of accuracy-related penalty on underpayments, except as otherwise provided.

(B) (i) Except for understatements relating to reportable transactions to which Section 19164.5 applies, in the case of any proposed deficiency assessment issued after the last date of the amnesty period specified in Chapter 9.1 (commencing with Section 19730) for any taxable year beginning prior to January 1, 2003, the penalty specified in Section 6662(a) of the Internal Revenue Code shall be computed by substituting “40 percent” for “20 percent.”

(ii) Clause (i) shall not apply to any taxable year of a taxpayer beginning prior to January 1, 2003, if, as of the start date of the amnesty program period specified in Section 19731, the taxpayer is then under audit by the Franchise Tax Board, or the taxpayer has filed a protest under Section 19041, or the taxpayer has filed an appeal under Section 19045, or the taxpayer is engaged in settlement negotiations under Section 19442, or the taxpayer has a pending judicial proceeding in any court of this state or in any federal court relating to the tax liability of the taxpayer for that taxable year.

(2) With respect to corporations, this subdivision shall apply to all of the following:

(A) All taxable years beginning on or after January 1, 1990.

(B) Any other taxable year for which an assessment is made after July 16, 1991.

(C) For purposes of this section, references in Section 6662(e) of the Internal Revenue Code and the regulations thereunder, relating to treatment of an affiliated group that files a consolidated federal return, are modified to apply to those entities required to be included in a combined report under Section 25101 or 25110. For these purposes, entities included in a combined report pursuant to paragraph (4) or (6) of subdivision (a) of Section 25110 shall be considered only to the extent required to be included in the combined report.

(3) Section 6662(d)(1)(B) of the Internal Revenue Code is modified to provide that in the case of a corporation, other than an “S” corporation, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of:

(A) Ten percent of the tax required to be shown on the return for the taxable year (or, if greater, two thousand five hundred dollars ($2,500)).

(B) Five million dollars ($5,000,000).

(4) Section 6662(d)(2)(A) of the Internal Revenue Code is modified to additionally provide that the excess determined under Section 6662(d)(2)(A) of the Internal Revenue Code shall be determined without regard to items to which Section 19164.5 applies and without regard to items with respect to which a penalty is imposed by Section 19774.

(5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2010.

(b) The amendments made by Section 605(a)(2) of Public Law 117-328 adding Sections 6662(b)(10) and 6662(h)(2)(D) to, and amending Section 6664(c)(2) of, the Internal Revenue Code, relating to application of accuracy-related penalties, shall apply to returns filed on or after January 1, 2024.

(c) For purposes of Section 6662(d) of the Internal Revenue Code, Section 6664 of the Internal Revenue Code, Section 6694(a)(1) of the Internal Revenue Code, and this part, the Franchise Tax Board may prescribe a list of positions for which the Franchise Tax Board believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. That list (and any revisions thereof) shall be published through the use of Franchise Tax Board Notices or other published positions. In addition, the "listed transactions" identified and published pursuant to the preceding sentence shall be published on the internet website of the Franchise Tax Board.

(d) A fraud penalty shall be imposed under this part and shall be determined in accordance with Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty, except as otherwise provided.

(e) (1) Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply, except as otherwise provided.

(2) Section 6664(c)(3) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2010.

(3) Section 6664(c)(4) of the Internal Revenue Code shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

(f) Except for purposes of subdivision (e) of Section 19774, Section 6662(b)(6) of the Internal Revenue Code shall not apply.

(g) Except for purposes of subdivision (e) of Section 19774, Section 6662(i) of the Internal Revenue Code, relating to increase in penalty in case of nondisclosed noneconomic substance transactions, shall not apply.

(h) Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply, except as otherwise provided.

(i) The amendments made to this section by Chapter 14 of the Statutes of 2011 shall apply to notices mailed on or after January 1, 2012.

SEC. 30. Section 19187 of the Revenue and Taxation Code is amended to read:

19187. (a) The Franchise Tax Board shall include with each notice imposing a penalty under this part information that contains the name of the penalty, the section of this part under which the penalty is imposed, and a description of the computation of the penalty. Upon the request of the taxpayer, the Franchise Tax Board shall also provide a computation of the penalty imposed.

(b) (1) No penalty under this part shall be imposed unless the initial determination of the imposition of the penalty is personally approved in writing by the immediate supervisor of the individual making that determination or a higher level official as designated by the executive officer, or the officer's delegee.

(2) Paragraph (1) shall not apply to any of the following:

(A) Any addition to tax under Sections 19131, 19132, 19136, or 19142.

(B) Any addition to tax imposed pursuant to subdivision (b) of Section 19164.

(C) Any other penalty automatically calculated through electronic means.

(D) Any penalty resulting from a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority required to be reported under subdivision (a) of Section 18622.

(c) For purposes of this section, "penalty" includes any addition to tax or any additional amount.

(d) This section shall apply to notices issued and penalties imposed after December 31, 2001.

(e) The amendments made to this section by the act adding this subdivision shall apply for additions to tax imposed on or after January 1, 2024.

SEC. 31. Section 19378 of the Revenue and Taxation Code is amended to read:

19378. (a) The Franchise Tax Board shall determine the amount of the contracting costs incurred under Section 19377 and notify the Controller of that amount which shall be transferred from the Personal Income Tax Fund or the Corporation Tax Fund to the Delinquent Tax Collection Fund, which is hereby created.

(b) The Controller shall transfer that amount determined pursuant to subdivision (a) from the Delinquent Tax Collection Fund to the Franchise Tax Board for reimbursement of its contracting costs. The moneys remaining in the Delinquent Tax Collection Fund after disbursements shall be transferred to the Personal Income Tax Fund or the Corporation Tax Fund by the Controller upon

notification by the Franchise Tax Board. Notwithstanding Section 13340 of the Government Code, the moneys transferred pursuant to this section are hereby continuously appropriated, without regard to fiscal years.

(c) The funds generated through this section shall not be used in place of funds from other sources that are available for appropriation to the Franchise Tax Board.

(d) This section shall become operative on July 1, 1993.

(e) This section shall remain in effect only until June 30, 2024, and as of that date is repealed.

SEC. 32. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term “tax” includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on “S” corporations imposed under Section 23802.

(2) The term “tax” does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term “tax” also includes all of the following:

(1) The tax on limited partnerships, imposed under Section 17935, the tax on limited liability companies, imposed under Section 17941, and the tax on registered limited liability partnerships and foreign limited liability partnerships imposed under Section 17948.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of “S” corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of “S” corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits are allowed against the “tax” in the following order:

(1) Credits that do not contain carryover provisions.

(2) Credits that, when the credit exceeds the “tax,” allow the excess to be carried over to offset the “tax” in succeeding taxable years, except for those credits that are allowed to reduce the “tax” below the tentative minimum tax, as defined by Section 23455. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits that are allowed to reduce the “tax” below the tentative minimum tax, as defined by Section 23455, except the credit described in paragraph (5).

(5) For taxable years beginning on or after January 1, 2025, the credit allowed by Section 23698.1.

(6) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following applies:

(1) A credit may not reduce the “tax” below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits:

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by former Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by former Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by former Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.2 (relating to enterprise zone sales or use tax credit).

(I) The credit allowed by former Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(J) The credit allowed by former Section 23622 (relating to enterprise zone hiring credit).

(K) The credit allowed by Section 23622.7 (relating to enterprise zone hiring credit).

(L) The credit allowed by former Section 23623 (relating to program area hiring credit).

(M) The credit allowed by former Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(N) The credit allowed by former Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(O) The credit allowed by Section 23633 (relating to targeted tax area sales or use tax credit).

(P) The credit allowed by Section 23634 (relating to targeted tax area hiring credit).

(Q) The credit allowed by former Section 23649 (relating to qualified property).

(R) For taxable years beginning on or after January 1, 2011, the credit allowed by Section 23685 (relating to qualified motion pictures).

(S) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 23689 (relating to GO-Biz California Competes Credit).

(T) For taxable years beginning on or after January 1, 2016, the credit allowed by Section 23695 (relating to qualified motion pictures).

(U) For taxable years beginning on or after January 1, 2014, the credit allowed by Section 23686 (relating to the College Access Tax Credit Fund).

(V) For taxable years beginning on or after January 1, 2017, the credit allowed by Section 23687 (relating to the College Access Tax Credit Fund).

(W) For taxable years beginning on or after January 1, 2020, and before January 1, 2031, the credit allowed by Section 23636 (relating to the new advanced strategic aircraft credit).

(X) For taxable years beginning on or after January 1, 2020, the credit allowed by Section 23698 (relating to the California Motion Picture and Television Production Credit).

(Y) For taxable years beginning on or after January 1, 2025, the credit allowed by Section 23698.1 (relating to the California Motion Picture and Television Production Credit).

(2) A credit against the tax may not reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) is allowed to be carried over to reduce the “tax” in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative is allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer is eligible to receive the tax credit in proportion to their respective share of the costs paid or incurred.

(h) Unless otherwise provided, in the case of an “S” corporation, any credit allowed by this part is computed at the “S” corporation level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit applies to the “S” corporation and to each shareholder.

(i) (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 is 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 "tax," as defined in subdivision (a), for the taxable year is limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 23455), 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 23455), determined by excluding the income attributable to that disregarded business entity. A credit is not allowed if the taxpayer's regular tax (as defined in Section 23455), determined by including the income attributable to the disregarded business entity is less than the taxpayer's regular tax (as defined in Section 23455), 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 (d), (e), and (f).

(j) (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 prior to 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 a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

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

(1) The amendments to subdivision (c) shall be operative for taxable years beginning on or after January 1, 2025.

(2) The amendments to subparagraph (X) of paragraph (1) of subdivision (d) shall be operative for taxable years beginning on or after January 1, 2020.

(3) The amendments to subparagraph (Y) of paragraph (1) of subdivision (d) shall be operative for taxable years beginning on or after January 1, 2025.

SEC. 33. Section 23036.4 is added to the Revenue and Taxation Code, to read:

23036.4. (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, 2024, and before January 1, 2027, 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, 2024, and before January 1, 2027, 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.

SEC. 34. Section 23604 of the Revenue and Taxation Code is amended to read:

23604. For each taxable year beginning on or after January 1, 1996, and before January 1, 2024, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount determined as follows:

(a) (1) (A) The amount of the credit shall be equal to one-third of the federal credit computed in accordance with Section 43 of the Internal Revenue Code.

(B) If a taxpayer elects, under Section 43(e) of the Internal Revenue Code, not to apply Section 43 for federal tax purposes, this election is binding and irrevocable for state purposes, and for purposes of subparagraph (A), the federal credit shall be zero.

(2) "Qualified enhanced oil recovery project" shall include only projects located within California.

(3) The credit allowed under this subdivision shall not be allowed to any taxpayer for whom a depletion allowance is not permitted to be computed under Section 613 of the Internal Revenue Code by reason of paragraphs (2), (3), or (4) of subsection (d) of Section 613A of the Internal Revenue Code.

(b) Section 43(d) of the Internal Revenue Code shall apply.

(c) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" for the succeeding 15 years.

(d) In the case where property which qualifies as part of the taxpayer's "qualified enhanced oil recovery costs" also qualifies for a credit under any other section in this part, the taxpayer shall make an election on its original return as to which section applies to all costs allocable to that item of qualified property. Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(e) No deduction shall be allowed as otherwise provided in this part for that portion of any costs paid or incurred for the taxable year which is equal to the amount of the credit allowed under this section attributable to those costs.

(f) The basis of any property for which a credit is allowed under this section shall be reduced by the amount of the credit attributable to the property. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(g) No credit may be claimed under this section with respect to any amount for which any other credit has been claimed under this part.

(h) This section shall remain in effect only until December 1, 2024, and as of that date is repealed.

SEC. 35. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution, as defined in Section 24359, the payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) (1) In the case of a corporation reporting its income on the accrual basis, the corporation may elect to treat the contribution as paid during that taxable year if both of the following occur:

(A) The board of directors authorizes a charitable contribution during the taxable year.

(B) Payment of the contribution is made after the close of that taxable year and on or before the 15th day of the third month following the close of the taxable year.

(2) The election allowed by paragraph (1) may be made only at the time of the filing of the return for the taxable year, and shall be signified in the manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution that consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in

Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in that travel.

(e) (1) Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, shall apply, except as otherwise provided.

(2) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(f) Section 170(f)(9) of the Internal Revenue Code, relating to denial of deduction where contribution for lobbying activities, shall apply, except as otherwise provided.

(g) (1) Notwithstanding any other provision of law to the contrary, for purposes of this section and Section 24341, Section 170 of the Internal Revenue Code, relating to charitable, etc., contributions and gifts, shall be applied to allow a taxpayer to elect to treat any contribution described in paragraph (2) made in January 2005, as if that contribution was made on December 31, 2004, and not in January 2005.

(2) A contribution is described in this paragraph if that contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under this section.

(h) (1) Section 170(f)(11)(E) of the Internal Revenue Code, relating to qualified appraisal and appraiser, shall apply, except as otherwise provided.

(2) This subdivision shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

(i) (1) Section 170(f)(16) of the Internal Revenue Code, relating to contributions of clothing and household items, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

(j) (1) Section 170(f)(17) of the Internal Revenue Code, relating to recordkeeping, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

(k) (1) Section 170(o) of the Internal Revenue Code, relating to special rules for fractional gifts, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

(l) (1) (A) The amendments made by Section 605(a)(1) of Public Law 117-328 adding paragraph (7) to Section 170(h) of the Internal Revenue Code, relating to limitation on deduction for qualified conservation contributions made by passthrough entities, shall apply, except as otherwise provided.

(B) Section 170(h)(7)(G) of the Internal Revenue Code, relating to regulations, as added by Section 605(a)(1) of Public Law 117-328, shall not apply.

(C) Section 605(a)(3) of Public Law 117-328, relating to extension of statute of limitations for listed transactions, shall apply and is modified by substituting “Section 19755” for “sections 6501(c)(10) and 6235(c)(6) of such Code.”

(2) The amendments made by Section 605(b) of Public Law 117-328 adding paragraph (19) to Section 170(f) of the Internal Revenue Code, relating to certain qualified conservation contributions, shall apply.

(3) This subdivision shall apply to contributions made on or after January 1, 2024.

(m) Section 605(d)(2) of Public Law 117-328, relating to opportunity to correct, shall apply.

SEC. 36. Section 24416.24 is added to the Revenue and Taxation Code, to read:

24416.24. (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, 2024, and before January 1, 2027.

(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, 2025, and before January 1, 2026.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2024, and before January 1, 2025.

(3) By three years, for losses incurred in taxable years beginning before January 1, 2024.

(c) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2024, and before January 1, 2027, 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.

SEC. 37. Section 24423 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 24831 of the Revenue and Taxation Code is amended to read:

24831. (a) Subchapter I of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to natural resources, shall apply, except as otherwise provided.

(b) For taxable years beginning on or after January 1, 2024, Section 613(b)(2)(B) of the Internal Revenue Code, in the case of oil shale, shall not apply.

(c) For taxable years beginning on or after January 1, 2024, Section 613(b)(4) of the Internal Revenue Code, relating to 10 percent, in the case of coal, shall not apply.

(d) For taxable years beginning on or after January 1, 2024, Section 613A of the Internal Revenue Code, relating to limitations on percentage depletion in the case of oil and gas wells, shall not apply.

SEC. 39. Section 24831.3 of the Revenue and Taxation Code is repealed.

SEC. 40. Section 24831.6 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 25128.9 is added to the Revenue and Taxation Code, to read:

25128.9. (a) The Legislature finds and declares all of the following:

(1) In 1966, the California Legislature enacted the Uniform Division of Income for Tax Purposes Act under Sections 25120 through 25139, inclusive, of the Revenue and Taxation Code.

(2) That act provides for the allocation and apportionment of income of taxpayer having income from business activities which is taxable both within and without the state.

(3) On April 28, 2006, the Franchise Tax Board issued Franchise Tax Board Legal Ruling 2006-1 (the Legal Ruling), regarding the treatment of apportionment factors attributable to income exempt from income tax under the Corporation Tax Law.

(4) It is the intent of the Legislature that the Legal Ruling shall apply with respect to apportionment factors attributable to the income of taxpayers subject to tax under the Corporation Tax Law.

(5) It is the intent of the Legislature that this section does not constitute a change in, but is declaratory of, existing law.

(6) It is the intent of the Legislature that the clarification in this section apply to any apportionment formula currently and formerly allowed under this article.

(b) (1) A transaction or activity, to the extent that it generates income or loss not included in “net income,” as defined in Section 24341, subject to apportionment, shall be excluded from the apportionment formulas under this part, including Sections 25128, 25128.7, and 25141, and former Section 25128.5.

(2) For the purposes of this section, “not included in ‘net income,’” means income from transactions and activities that is not included in net income subject to apportionment for any reason, including, but not limited to, exclusion, deduction, exemption, elimination, or nonrecognition.

(c) (1) The Franchise Tax Board may adopt regulations that are necessary or appropriate to carry out the purpose of this section, which is to prevent inclusion within the apportionment formula of transactions and activities that give rise to income that is not subject to apportionment.

(2) 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 regulation, 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 apply to taxable years beginning before, on, or after the effective date of the act adding this section.

SEC. 42. Section 50108 of the Revenue and Taxation Code is amended to read:

50108. (a) The fee imposed pursuant to Sections 25299.41 and 25299.43 of the Health and Safety Code shall be administered and collected by the California Department of Tax and Fee Administration in accordance with this part.

(b) The repeal of certain portions of Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code by the act adding this subdivision does not terminate the rights, obligations, or authorities, or any provision necessary to carry out the rights and obligations for the California Department of Tax and Fee Administration to collect unpaid fees pursuant to this part that are imposed pursuant to Article 5 (commencing with Section 25299.40) of Chapter 6.75 of Division 20 of the Health and Safety Code, as that article read on December 31, 2035, or that have become due before January 1, 2036, including any interest or penalties that accrue before, on, or after January 1, 2036, associated with those unpaid fees, for deposit into the Underground Storage Tank Cleanup Fund, the making of any returns and effecting of any credits, the disposition of the moneys collected, and the commencement of any action or proceeding regarding fees imposed pursuant to Article 5 (commencing with Section 25299.40) of Chapter 6.75 of Division 20 of the Health and Safety Code.

SEC. 43. Section 8163 of the Welfare and Institutions Code is amended to read:

8163. Notwithstanding any other law, the state may contract with a third-party vendor for services relating to the distribution of payments made pursuant to this chapter in the form and manner best determined to expedite payment and mitigate fraud. A contract for services entered into pursuant to this section may include terms and conditions that are in the state's best interest, but shall include an expiration date on each form of payment issued of no later than April 30, 2026, and a requirement that any unexpended or unclaimed balance of the payments issued shall, upon expiration, be returned to the Franchise Tax Board which will deposit the moneys in the General Fund, and all unused balances returned, no later than May 31, 2026.

SEC. 44. It is the intent of the Legislature to hereby supersede or overrule, as applicable, the State Board of Equalization's Memorandum Opinion "In the Matter of the Claim for Refund Under the Sales and Use Tax Law of WFS Financial, Inc." (December 14, 2000).

SEC. 45. It is the intent of the Legislature to enact legislation to do the following:

(a) Ensure that taxpayers subject to a temporary credit limitation beginning calendar year 2024 can utilize their credits after the limitation period ends by electing to receive a refund of those tax credits calculated based on the amount of credits the taxpayer would have otherwise used to reduce tax liability during the taxable years in which the limitation was effective.

(b) Allow an electing taxpayer to claim the refundable portion of its tax credits during defined taxable years commencing with the taxable year immediately following the last taxable year of the credit limitation period.

(c) Include specific provisions to prevent overstatement of the amount of refundable tax credits, including, but not limited to the following:

(1) The refundable credit amount can be adjusted by the Franchise Tax Board if it determines the refundable credit amount is overstated.

(2) The Franchise Tax Board can issue assessments to recover overstated refunds generated in previous years and adjust amounts of tax due in subsequent years.

SEC. 46. The provisions of this act are severable. If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.

SEC. 47. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 48. 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.