



STATE CAPITOL  
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Assembly  
California Legislature  
Committee on Rules

RICHARD S. GORDON  
CHAIR

VICE CHAIR  
LING LING CHANG

MEMBERS  
AUTUMN R. BURKE  
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BILL DODD  
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CHAD MAYES  
FREDDIE RODRIGUEZ  
MARIE WALDRON  
JIM WOOD

PATTY LOPEZ (D-ALT.)  
JAY OBERNOLTE (R-ALT.)

Thursday, April 09, 2015  
8:50 AM  
State Capitol, Room 3162

CONSENT AGENDA

**Bill Referrals**

1. Consent Bill Referrals

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**Resolutions**

2. ACR 50 (Gonzalez) Relative to Equal Pay Day.  
3. SCR 29 (Nguyen) Relative to Black April Memorial Month.  
4. SCR 31 (Wolk) Relative to California Library Week.

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**Requests to Add Urgency Clause**

5. AB 154 (Ting) Relative to Taxation: federal conformity.  
6. AB 475 (Bigelow) Relative to Tribal gaming: compact ratification.  
7. AB 507 (Olsen) Relative to Department of Consumer Affairs: BreEZe system: annual report.  
8. AB 1147 (Maienschein..) Relative to Health facilities: pediatric day health and respite care facilities.  
9. AB 1259 (Levine) Relative to Bees: apiculture: state-owned lands.

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REFERRAL OF BILLS TO COMMITTEE

04/09/2015

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.	Committee:
<a href="#">AB 528</a>	P.E.,R. & S.S.
<a href="#">AB 1044</a>	ED.
<a href="#">AB 1078</a>	ED.
<a href="#">AB 1099</a>	ED.
<a href="#">AB 1248</a>	ED.
<a href="#">ACR 53</a>	TRANS.
<a href="#">HR 15</a>	RLS.



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JAY OBERNOLTE (R-ALT.)

# Memo

**To:** Rules Committee Members  
**From:** Mukhtar Ali, Bill Referral Consultant  
**Date:** 4/8/2015  
**Re:** Consent Bill Referrals

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Since you received the preliminary list of bill referrals there have been no changes.

**Assembly Concurrent Resolution**

**No. 50**

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**Introduced by Assembly Member Gonzalez**

March 19, 2015

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Assembly Concurrent Resolution No. 50—Relative to Equal Pay Day.

LEGISLATIVE COUNSEL’S DIGEST

ACR 50, as introduced, Gonzalez. Equal Pay Day

This measure would proclaim April 14, 2015, as Equal Pay Day in recognition of the need to eliminate the gender gap in earnings by women and to promote policies to ensure equal pay for all.

Fiscal committee: no.

- 1 WHEREAS, More than 50 years after the passage of the Equal  
2 Pay Act, women, especially minority women, continue to suffer  
3 the consequences of unequal pay; and  
4 WHEREAS, According to a report by the National Partnership  
5 for Women & Families, women in California earned a median of  
6 \$0.84 for each dollar earned by men as of October 2014; and  
7 WHEREAS, As reported by the United States Census Bureau,  
8 women working full time, year round in 2013, typically earned 78  
9 percent of what men earned, indicating little change or progress  
10 in pay equity; and  
11 WHEREAS, According to “Graduating to a Pay Gap,” a 2012  
12 research report by the American Association of University Women  
13 (AAUW), the gender pay gap is evident one year after college  
14 graduation, even after controlling for factors known to affect

1 earnings, such as occupation, hours worked, and college major;  
2 and

3 WHEREAS, In 2011, the Georgetown University Center on  
4 Education and the Workforce found that college-educated women  
5 working full time earn \$650,000 less than their male peers do over  
6 the course of a lifetime; and

7 WHEREAS, In 2009, the Lilly Ledbetter Fair Pay Act was signed  
8 into law, which gives back to employees their day in court to  
9 challenge a pay gap, and now we must pass the Paycheck Fairness  
10 Act, which would amend the Equal Pay Act by closing loopholes  
11 and improving the law's effectiveness; and

12 WHEREAS, Nearly four in 10 mothers are primary breadwinners  
13 in their households and nearly two-thirds are primary or significant  
14 earners, making pay equity critical to families' economic security;  
15 and

16 WHEREAS, A lifetime of lower pay means women have less  
17 income to save for retirement and less income counted in a social  
18 security or pension benefit formula; and

19 WHEREAS, Fair pay equity policies can be implemented simply  
20 and without undue costs or hardship in both the public and private  
21 sectors; and

22 WHEREAS, Fair pay strengthens the security of families today  
23 and eases future retirement costs while enhancing the American  
24 economy; and

25 WHEREAS, Tuesday, April 14, symbolizes the time in 2015  
26 when the wages paid to American women catch up to the wages  
27 paid to men from the previous year; now, therefore, be it

28 *Resolved by the Assembly of the State of California, the Senate*  
29 *thereof concurring*, That the Legislature proclaims Tuesday, April  
30 14, 2015, as Equal Pay Day in recognition of the need to eliminate  
31 the gender gap in earnings by women and to promote policies to  
32 ensure equal pay for all; and be it further

33 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
34 of this resolution to the author for appropriate distribution.

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Date of Hearing: April 9, 2015

ASSEMBLY COMMITTEE ON RULES  
Richard Gordon, Chair  
ACR 50 (Gonzalez) – As Introduced March 19, 2015

**SUBJECT:** Equal Pay Day.

**SUMMARY:** Proclaims April 14, 2015, as Equal Pay Day in recognition of the need to eliminate the gender gap in earnings by women and to promote policies to ensure equal pay for all. Specifically, **this resolution** makes the following legislative findings:

- 1) More than 50 years after the passage of the Equal Pay Act, women, especially minority women, continue to suffer the consequences of unequal pay.
- 2) According to a October 2014 report by the National Partnership for Women & Families, women in California earned a median of \$0.84 for each dollar earned by men and the United States Census Bureau reported women working full time, year round in 2013, typically earned 78 percent of what men earned, which indicates little change or progress in pay equity.
- 3) Nearly one in four mothers is a primary breadwinner in their households and nearly two-thirds are primary or significant earners, making pay equity critical to families' economic security.
- 4) In 2009, the Lilly Ledbetter Fair Pay Act was signed into law, which gives back to employees their day in court to challenge a pay gap, and now we must pass the Paycheck Fairness Act, which would amend the Equal Pay Day Act by closing loopholes and improving the law's effectiveness.
- 5) Fair pay strengthens the security of families today and eases future retirement costs while enhancing America's economy.

**FISCAL EFFECT:** None

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Nicole Willis / RLS. / (916) 319-2800

AMENDED IN SENATE MARCH 19, 2015

**Senate Concurrent Resolution**

**No. 29**

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**Introduced by Senator Nguyen**

(Principal coauthor: Assembly Member Travis Allen)

**(Coauthors: Senators Bates, *Beall*, *Hall*, *Huff*, *Morrell*, *Nielsen*, and ~~Vidak~~ *Vidak*, and *Wieckowski*)**

(Coauthors: Assembly Members *Chávez*, *Chu*, *Harper*, *Kim*, *Lackey*, *McCarty*, *Wagner*, and *Wilk*)

March 10, 2015

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Senate Concurrent Resolution No. 29—Relative to Black April Memorial Month.

LEGISLATIVE COUNSEL'S DIGEST

SCR 29, as amended, Nguyen. Black April Memorial Month.

This act would proclaim the month of April 2015 as Black April Memorial Month, in recognition of the 40th anniversary of the ~~fall~~ *Fall* of Saigon.

Fiscal committee: no.

- 1     WHEREAS, April 30, 2015, marks the 40th year since the Fall  
2     of Saigon on April 30, 1975, to communism; and  
3     WHEREAS, For many Vietnam and Vietnam-era veterans who  
4     were directly involved in the war and Vietnamese Americans who  
5     have settled in the United States, the Vietnam War was a tragedy  
6     full of great suffering and the loss of American, Vietnamese, and  
7     Southeast Asian lives; and  
8     WHEREAS, The combined United States and South Vietnamese  
9     fatalities among servicemen and women during the Vietnam War  
10    reached more than half a million, with approximately 800,000

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1 additional troops being wounded in combat. Millions of  
2 Vietnamese civilians suffered casualties and death as a result of  
3 the extended conflict; and

4 WHEREAS, After the ~~fall~~ *Fall* of Saigon, millions of  
5 Vietnamese and their families fled Vietnam to surrounding areas  
6 and the United States, including, but not limited to, former military  
7 personnel, government officials, and those who had worked for  
8 the United States during the war; and

9 WHEREAS, In the late 1970s to mid-1980s thousands of  
10 Vietnamese risked their lives by fleeing Vietnam aboard small  
11 wooden boats. These emigrants reached refugee camps in Thailand,  
12 Malaysia, Indonesia, the Philippines, and ~~Hong-Kong;~~ *Kong*, while  
13 approximately one-half of the people fleeing Vietnam in search  
14 of freedom and democracy perished at sea; and

15 WHEREAS, According to the United States Census for 2010,  
16 more than 580,000 Vietnamese live in California, with the largest  
17 concentration of Vietnamese residents found outside of Vietnam  
18 residing in the County of Orange; and

19 WHEREAS, Human rights, religious freedom, democracy, and  
20 protection against threats of aggression are important concerns of  
21 Vietnamese Americans and the Vietnamese communities  
22 worldwide stemming from the human rights abuses that continue  
23 to occur in Vietnam in the following areas, but are not limited to,  
24 child labor, human trafficking, religious and political persecution,  
25 suppression of the press, unlawful deprivation of life, forced  
26 disappearances, and land ~~restitution;~~ *seizure*; and

27 WHEREAS, The 2013 United States Department of ~~State~~ *State's*  
28 Report on Human Rights Practices in Vietnam estimates more than  
29 120 political detainees are being held, and diplomatic sources  
30 report there are approximately 4,000 prisoners incarcerated in four  
31 reeducation centers; and

32 WHEREAS, We must teach our children and future generations  
33 important lessons from the Vietnam War and the continuing  
34 situation in Vietnam, including how the plight of the Vietnamese  
35 refugees following the end of war serves as a powerful example  
36 of the values of freedom and democracy; and

37 WHEREAS, We, the people of California, should actively  
38 rededicate ourselves to the principles of human rights, individual  
39 freedom, sovereignty, and equal protection under the laws of a just  
40 and democratic world. Californians should set aside moments of



1 time every year on April 30 to give remembrance to the soldiers,  
2 medical personnel, and civilians who died during the Vietnam War  
3 in pursuit of freedom and democracy; and

4 WHEREAS, Vietnamese American communities throughout  
5 California will commemorate April 30, 2015, as Black April, a  
6 day of remembrance and rededication to the principles of freedom,  
7 including freedom of religion, freedom of expression, freedom of  
8 press, and Internet freedom; now, therefore, be it

9 *Resolved by the Senate of the State of California, the Assembly*  
10 *thereof concurring*, That in recognition of the great tragedy and  
11 suffering and lives lost during the Vietnam War, the month of  
12 April 2015 shall be proclaimed Black April Memorial Month, a  
13 special time for Californians to remember the lives lost during the  
14 Vietnam War era, and to hope for a more humane and just life for  
15 the people of Vietnam; and be it further

16 *Resolved*, That the Secretary of the Senate transmit copies of  
17 this resolution to the author for appropriate distribution.

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Date of Hearing: April 9, 2015

ASSEMBLY COMMITTEE ON RULES  
Richard Gordon, Chair  
SCR 29 (Nguyen) – As Amended March 19, 2015

**SENATE VOTE:** 27-1

**SUBJECT:** Black April Memorial Month.

**SUMMARY:** Proclaims the month of April 2015 as Black April Memorial Month, in recognition of the 40th anniversary of the Fall of Saigon. Specifically, **this resolution** makes the following legislative findings:

- 1) April 30, 2015 marks the 40th year since the Fall of Saigon on April 30, 1975 to communism.
- 2) For many Vietnam and Vietnam-era veterans who were directly involved in the war and Vietnamese Americans who have settled in the United States, the Vietnam War was a tragedy full of great suffering and the loss of American, Vietnamese, and Southeast Asian lives.
- 3) After the Fall of Saigon, millions of Vietnamese people and their families fled to the United States, including former military personnel, government officials, and those who had worked for the United States during the war.
- 4) According to the United States Census for 2010, more than 580,000 Vietnamese live in California, with the largest concentration of Vietnamese found outside of Vietnam residing in Orange County.
- 5) We, the people of California, should actively rededicate ourselves to the principles of human rights, individual freedom, sovereignty, and equal protection under the laws of a just and democratic world. Californians should set aside moments of time every year on April 30 to give remembrance to the soldiers, medical personnel, and civilians who died during the Vietnam War in pursuit of freedom.
- 6) Vietnamese American communities throughout California will commemorate April 30, 2015, as Black April, a day of remembrance and rededication to the principles of freedom, including freedom of expression, freedom of press, and Internet freedom.

**FISCAL EFFECT:** None

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Nicole Willis / RLS. / (916) 319-2800

**Introduced by Senator Wolk**  
**(Coauthors: Senators Hill, Liu, and Nielsen)**  
(Coauthors: Assembly Members Gatto and Gordon)

March 12, 2015

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Senate Concurrent Resolution No. 31—Relative to California Library Week.

LEGISLATIVE COUNSEL’S DIGEST

SCR 31, as introduced, Wolk. California Library Week.

This measure would declare April 12, 2015, to April 18, 2015, inclusive, as California Library Week.

Fiscal committee: no.

1 WHEREAS, California Library Week seeks to partner with the  
2 efforts surrounding National Library Week, which is being  
3 celebrated in public libraries throughout the United States from  
4 April 12, 2015, to April 18, 2015, inclusive; and

5 WHEREAS, More than 21 million people use California’s public  
6 libraries each year; and

7 WHEREAS, California’s public libraries are changing and  
8 dynamic places, offering books, computers, Internet access, e-mail  
9 reference, e-books, and other innovative services to connect their  
10 users with ideas and information; and

11 WHEREAS, California’s public libraries are valued community  
12 centers providing education, information, knowledge, and  
13 entertainment; and

14 WHEREAS, California’s public libraries and librarians advance  
15 teaching and learning by helping students, faculty, seniors,

1 veterans, researchers, and other members of the general public  
2 obtain the best, most accurate, and complete information; and

3 WHEREAS, California’s public libraries provide equal and  
4 economical services to library users, and in many cases, serve as  
5 a community’s only point of access to resources for learning; and

6 WHEREAS, California’s public libraries provide technology  
7 training and help to bridge the “digital divide” for those who do  
8 not have access to technology at home or at school; and

9 WHEREAS, California’s public libraries change lives by serving  
10 over 20,000 adults annually through customized literacy services  
11 delivered primarily through trained volunteers, who contribute  
12 over 750,000 hours annually to assist adults in learning how to  
13 read; and

14 WHEREAS, The students of California are a rapidly growing  
15 group of library users, visiting the state’s public libraries after  
16 school and on weekends for homework assistance and for materials  
17 to use in school assignments; and

18 WHEREAS, California’s public libraries are important  
19 community educational resources, providing books and innovative  
20 programs and services such as preschool literacy readiness, Toddler  
21 Times, the California Summer Reading Program, Grandparents  
22 and Books, and Reach Out and Read in conjunction with pediatric  
23 clinics; and

24 WHEREAS, This year the California State Library will be  
25 celebrating its 165th year of providing technical assistance and  
26 consultation to California’s public libraries, and preserving and  
27 hosting an abundance of California’s priceless historical items;  
28 and

29 WHEREAS, California’s public libraries preserve our cultural  
30 heritage, inform our present, and inspire our future; now, therefore,  
31 be it

32 *Resolved by the Senate of the State of California, the Assembly*  
33 *thereof concurring,* That the Legislature declares the week of April  
34 12, 2015, to April 18, 2015, inclusive, as California Library Week,  
35 and commends California’s public libraries, librarians, and all  
36 library workers for enriching the lives of California residents and  
37 helping to make our state an exceptional place to live, learn, and  
38 work; and be it further

- 1 *Resolved*, That the Secretary of the Senate transmit copies of
- 2 this resolution to the author for appropriate distribution.

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Date of Hearing: April 9, 2015

ASSEMBLY COMMITTEE ON RULES  
Richard Gordon, Chair  
SCR 31 (Wolk) – As Introduced March 12, 2015

**SENATE VOTE:** 35-0

**SUBJECT:** California Library Week.

**SUMMARY:** Declares April 12 to April 18, 2015, as California Library Week. Specifically, **this resolution** makes the following legislative findings:

- 1) California Library Week seeks to partner with the efforts surrounding National Library Week, which is being celebrated in public libraries throughout the United States from April 12 to April 18, 2015.
- 2) More than 21 million people use California's public libraries each year.
- 3) California's public libraries and librarians advance teaching and learning by helping students, faculty, seniors, veterans, researchers, and other members of the general public obtain the best, most accurate, and complete information.
- 4) California's public libraries provide equal and economical services to library users, and in many cases, serve as a community's only point of access to resources for learning.
- 5) California's public libraries provide technology training and help to bridge the digital divide for those who do not have access to technology at home or at school.
- 6) California's public libraries change lives by serving over 20,000 adults annually through customized literacy services delivered primarily through trained volunteers, who contribute over 750,000 hours annually to assist adults in learning how to read.
- 7) The students of California are a rapidly growing group of library users, visiting the state's public libraries after school and on weekends for homework assistance and for materials to use in school assignments.
- 8) California's public libraries are important community educational resources, providing books and innovative programs and services such as preschool literacy readiness, Toddler Times, the Summer Reading Program, Grandparents and Books, and Reach Out and Read in conjunction with pediatric clinics.
- 9) This year the California State Library will be celebrating its 165th year of providing technical assistance and consultation to California's public libraries, and preserving and hosting an abundance of California's priceless historical items.
- 10) California's public libraries preserve our cultural heritage, inform our present, and inspire our future.

**FISCAL EFFECT:** None

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Nicole Willis / RLS. / (916) 319-2800



AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 154**

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**Introduced by Assembly Member Ting**

January 16, 2015

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~~An act to amend Section 23037 of the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Sections 17024.5, 17088, 17144, 17215, 18155, 19141.5, 19164, 19167, 19172, 19172.5, 19183, 19772, 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, to add Sections 17240, 17241, 17323, 19131.5, 24454, and 24459 to, and to repeal Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 154, as amended, Ting. ~~Corporation Tax Law.~~ *Taxation: federal conformity.*

*Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2010, the specified date of those referenced Internal Revenue Code sections is January 1, 2009, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment*

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to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, and penalty amounts related to the failure to file specified returns or include specified information on returns.

This bill would also specify various dates on which specified provisions apply and repeal obsolete provisions.

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 <sup>2</sup>/<sub>3</sub> of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~The Corporation Tax Law defines a taxpayer as any person that is subject to the corporation franchise tax, alternative minimum tax, or corporation income tax.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: ~~majority~~<sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 17024.5 of the Revenue and Taxation
- 2 Code is amended to read:

1 17024.5. (a) (1) Unless otherwise specifically provided, the  
 2 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
 3 or “Internal Revenue Code of 1986,” for purposes of this part,  
 4 mean Title 26 of the United States Code, including all amendments  
 5 thereto as enacted on the specified date for the applicable taxable  
 6 year as follows:

	Taxable Year	Specified Date of Internal Revenue Code Sections
12 13 14	(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
15 16 17	(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
18 19 20	(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
21 22 23	(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
24 25 26	(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
27 28 29	(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
30 31 32	(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
33 34 35	(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991.....	January 1, 1991
36 37 38	(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992.....	January 1, 1992
39 40	(J) For taxable years beginning on or after January 1, 1993, and on or before December	

1 31, 1996..... January 1, 1993  
2 (K) For taxable years beginning on or after  
3 January 1, 1997, and on or before December  
4 31, 1997..... January 1, 1997  
5 (L) For taxable years beginning on or after  
6 January 1, 1998, and on or before December  
7 31, 2001..... January 1, 1998  
8 (M) For taxable years beginning on or after  
9 January 1, 2002, and on or before December  
10 31, 2004..... January 1, 2001  
11 (N) For taxable years beginning on or after  
12 January 1, 2005, and on or before December  
13 31, 2009..... January 1, 2005  
14 (O) For taxable years beginning on or after  
15 January 1, 2010, and on or before December  
16 31, 2014..... January 1, 2009  
17 (P) For taxable years beginning on or after  
18 January 1, 2015..... January 1, 2015  
19

20 (2) (A) Unless otherwise specifically provided, for federal laws  
21 enacted on or after January 1, 1987, and on or before the specified  
22 date for the taxable year, uncodified provisions that relate to  
23 provisions of the Internal Revenue Code that are incorporated for  
24 purposes of this part shall be applicable to the same taxable years  
25 as the incorporated provisions.

26 (B) In the case where Section 901 of the Economic Growth and  
27 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
28 provision of the Internal Revenue Code that is incorporated for  
29 purposes of this part, Section 901 of the Economic Growth and  
30 Tax Relief Act of 2001 shall apply for purposes of this part in the  
31 same manner and to the same taxable years as it applies for federal  
32 income tax purposes.

33 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
34 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
35 Reconciliation Act of 1990 (Public Law 101-508) modified  
36 numerous provisions of the Internal Revenue Code and provisions  
37 of prior federal acts, some of which are incorporated by reference  
38 into this part. Unless otherwise provided, the provisions described  
39 in the preceding sentence, to the extent that they modify provisions  
40 that are incorporated into this part, are declaratory of existing law

1 and shall be applied in the same manner and for the same periods  
2 as specified in the Revenue Reconciliation Act of 1990.

3 (b) Unless otherwise specifically provided, when applying any  
4 provision of the Internal Revenue Code for purposes of this part,  
5 a reference to any of the following is not applicable for purposes  
6 of this part:

7 (1) Except as provided in Chapter 4.5 (commencing with Section  
8 23800) of Part 11 of Division 2, an electing small business  
9 corporation, as defined in Section 1361(b) of the Internal Revenue  
10 Code.

11 (2) Domestic international sales corporations (DISC), as defined  
12 in Section 992(a) of the Internal Revenue Code.

13 (3) A personal holding company, as defined in Section 542 of  
14 the Internal Revenue Code.

15 (4) A foreign personal holding company, as defined in Section  
16 552 of the Internal Revenue Code.

17 (5) A foreign investment company, as defined in Section 1246(b)  
18 of the Internal Revenue Code.

19 (6) A foreign trust, as defined in Section 679 of the Internal  
20 Revenue Code.

21 (7) Foreign income taxes and foreign income tax credits.

22 (8) Section 911 of the Internal Revenue Code, relating to citizens  
23 or residents of the United States living abroad.

24 (9) A foreign corporation, except that Section 367 of the Internal  
25 Revenue Code shall be applicable.

26 (10) Federal tax credits and carryovers of federal tax credits.

27 (11) Nonresident aliens.

28 (12) Deduction for personal exemptions, as provided in Section  
29 151 of the Internal Revenue Code.

30 (13) The tax on generation-skipping transfers imposed by  
31 Section 2601 of the Internal Revenue Code.

32 (14) The tax, relating to estates, imposed by Section 2001 or  
33 2101 of the Internal Revenue Code.

34 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
35 and Section 172 of the Tax Reform Act of 1984 (Public Law  
36 98-369), relating to treatment of debt instruments, is not applicable  
37 for taxable years beginning before January 1, 1987.

38 (2) The provisions contained in Public Law 99-121, relating to  
39 the treatment of debt instruments, is not applicable for taxable  
40 years beginning before January 1, 1987.

1 (3) For each taxable year beginning on or after January 1, 1987,  
2 the provisions referred to by paragraphs (1) and (2) shall be  
3 applicable for purposes of this part in the same manner and with  
4 respect to the same obligations as the federal provisions, except  
5 as otherwise provided in this part.

6 (d) When applying the Internal Revenue Code for purposes of  
7 this part, regulations promulgated in final form or issued as  
8 temporary regulations by “the secretary” shall be applicable as  
9 regulations under this part to the extent that they do not conflict  
10 with this part or with regulations issued by the Franchise Tax  
11 Board.

12 (e) Whenever this part allows a taxpayer to make an election,  
13 the following rules shall apply:

14 (1) A proper election filed with the Internal Revenue Service  
15 in accordance with the Internal Revenue Code or regulations issued  
16 by “the secretary” shall be deemed to be a proper election for  
17 purposes of this part, unless otherwise provided in this part or in  
18 regulations issued by the Franchise Tax Board.

19 (2) A copy of that election shall be furnished to the Franchise  
20 Tax Board upon request.

21 (3) (A) Except as provided in subparagraph (B), in order to  
22 obtain treatment other than that elected for federal purposes, a  
23 separate election shall be filed at the time and in the manner  
24 required by the Franchise Tax Board.

25 (B) (i) If a taxpayer makes a proper election for federal income  
26 tax purposes prior to the time that taxpayer becomes subject to the  
27 tax imposed under this part or Part 11 (commencing with Section  
28 23001), that taxpayer is deemed to have made the same election  
29 for purposes of the tax imposed by this part, Part 10.2 (commencing  
30 with Section 18401), and Part 11 (commencing with Section  
31 23001), as applicable, and that taxpayer may not make a separate  
32 election for California tax purposes unless that separate election  
33 is expressly authorized by this part, Part 10.2 (commencing with  
34 Section 18401), or Part 11 (commencing with Section 23001), or  
35 by regulations issued by the Franchise Tax Board.

36 (ii) If a taxpayer has not made a proper election for federal  
37 income tax purposes prior to the time that taxpayer becomes subject  
38 to tax under this part or Part 11 (commencing with Section 23001),  
39 that taxpayer may not make a separate California election for  
40 purposes of this part, Part 10.2 (commencing with Section 18401),

1 or Part 11 (commencing with Section 23001), unless that separate  
2 election is expressly authorized by this part, Part 10.2 (commencing  
3 with Section 18401), or Part 11 (commencing with Section 23001),  
4 or by regulations issued by the Franchise Tax Board.

5 (iii) This subparagraph applies only to the extent that the  
6 provisions of the Internal Revenue Code or the regulation issued  
7 by “the secretary” authorizing an election for federal income tax  
8 purposes apply for purposes of this part, Part 10.2 (commencing  
9 with Section 18401) or Part 11 (commencing with Section 23001).

10 (f) Whenever this part allows or requires a taxpayer to file an  
11 application or seek consent, the rules set forth in subdivision (e)  
12 shall be applicable with respect to that application or consent.

13 (g) When applying the Internal Revenue Code for purposes of  
14 determining the statute of limitations under this part, any reference  
15 to a period of three years shall be modified to read four years for  
16 purposes of this part.

17 (h) When applying, for purposes of this part, any section of the  
18 Internal Revenue Code or any applicable regulation thereunder,  
19 all of the following shall apply:

20 (1) References to “adjusted gross income” shall mean the  
21 amount computed in accordance with Section 17072, except as  
22 provided in paragraph (2).

23 (2) (A) Except as provided in subparagraph (B), references to  
24 “adjusted gross income” for purposes of computing limitations  
25 based upon adjusted gross income, shall mean the amount required  
26 to be shown as adjusted gross income on the federal tax return for  
27 the same taxable year.

28 (B) In the case of registered domestic partners and former  
29 registered domestic partners, adjusted gross income, for the  
30 purposes of computing limitations based upon adjusted gross  
31 income, shall mean the adjusted gross income on a federal tax  
32 return computed as if the registered domestic partner or former  
33 registered domestic partner was treated as a spouse or former  
34 spouse, respectively, for federal income tax purposes, and used  
35 the same filing status that was used on the state tax return for the  
36 same taxable year.

37 (3) Any reference to “subtitle” or “chapter” shall mean this part.

38 (4) The provisions of Section 7806 of the Internal Revenue  
39 Code, relating to construction of title, shall apply.

1 (5) Any provision of the Internal Revenue Code that becomes  
 2 operative on or after the specified date for that taxable year shall  
 3 become operative on the same date for purposes of this part.

4 (6) Any provision of the Internal Revenue Code that becomes  
 5 inoperative on or after the specified date for that taxable year shall  
 6 become inoperative on the same date for purposes of this part.

7 (7) Due account shall be made for differences in federal and  
 8 state terminology, effective dates, substitution of “Franchise Tax  
 9 Board” for “secretary” when appropriate, and other obvious  
 10 differences.

11 (8) Except as otherwise provided, any reference to Section 501  
 12 of the Internal Revenue Code shall be interpreted to also refer to  
 13 Section 23701.

14 (i) Any reference to a specific provision of the Internal Revenue  
 15 Code shall include modifications of that provision, if any, in this  
 16 part.

17 *SEC. 2. Section 17088 of the Revenue and Taxation Code is*  
 18 *amended to read:*

19 17088. (a) ~~(1)~~ Subchapter M of Chapter 1 of Subtitle A of the  
 20 Internal Revenue Code, relating to regulated investment companies  
 21 and real estate investment trusts, shall apply, except as otherwise  
 22 provided.

23 ~~(2) Part 1 of Subchapter M of Chapter 1 of Subtitle A of the~~  
 24 ~~Internal Revenue Code, relating to regulated investment companies,~~  
 25 ~~as amended by the Regulated Investment Company Modernization~~  
 26 ~~Act of 2010 (Public Law 111-325), shall apply, except as otherwise~~  
 27 ~~provided.~~

28 (b) Section 17145 shall apply in lieu of Section 852(b)(5) of the  
 29 Internal Revenue Code, relating to exempt-interest dividends.

30 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,  
 31 relating to treatment by shareholders of undistributed capital gains,  
 32 shall not apply.

33 (2) Section 852(g)(1)(A) of the Internal Revenue Code is  
 34 modified by substituting the phrase “subdivision (a) of Section  
 35 17145” for the phrase “the first sentence of subsection (b)(5)”  
 36 contained therein.

37 ~~(d) (1) Except as provided in paragraph (2), the amendments~~  
 38 ~~made to this section by the act adding this paragraph shall apply~~  
 39 ~~to taxable years beginning on or after December 23, 2010.~~



1     ~~(2) (A) Section 851 of the Internal Revenue Code, relating to~~  
2 ~~definition of regulated investment company, as amended by Section~~  
3 ~~201 of the Regulated Investment Company Modernization Act of~~  
4 ~~2010 (Public Law 111-325), and Section 852(b)(2)(G) of the~~  
5 ~~Internal Revenue Code, as amended by Section 201 of the~~  
6 ~~Regulated Investment Company Modernization Act of 2010 (Public~~  
7 ~~Law 111-325), shall apply to taxable years with respect to which~~  
8 ~~the due date (determined with regard to any extensions) of the~~  
9 ~~return of tax for such taxable year is on or after December 23,~~  
10 ~~2010.~~

11     ~~(B) Section 852(b)(4) of the Internal Revenue Code, relating to~~  
12 ~~loss on sale or exchange of stock held six months or less, as~~  
13 ~~amended by Section 309 of the Regulated Investment Company~~  
14 ~~Modernization Act of 2010 (Public Law 111-325), shall apply to~~  
15 ~~losses incurred on shares of stock for which the taxpayer's holding~~  
16 ~~period begins on or after December 23, 2010.~~

17     ~~(C) Section 852(f)(1)(C) of the Internal Revenue Code, as~~  
18 ~~amended by Section 502 of the Regulated Investment Company~~  
19 ~~Modernization Act of 2010 (Public Law 111-325), shall apply to~~  
20 ~~charges incurred in taxable years beginning on or after December~~  
21 ~~23, 2010.~~

22     ~~(D) Section 855(a) of the Internal Revenue Code, relating to~~  
23 ~~general rule, as amended by Section 304 of the Regulated~~  
24 ~~Investment Company Modernization Act of 2010 (Public Law~~  
25 ~~111-325), shall apply to distributions in taxable years beginning~~  
26 ~~on or after December 23, 2010.~~

27     ~~SEC. 3. Section 17131.7 of the Revenue and Taxation Code is~~  
28 ~~repealed.~~

29     ~~17131.7. (a) Section 105(b) of the Internal Revenue Code,~~  
30 ~~relating to amounts expended for medical care, as amended by~~  
31 ~~Section 1004(d)(1) of the Health Care and Education Reconciliation~~  
32 ~~Act of 2010 (Public Law 111-152), shall apply, except as otherwise~~  
33 ~~provided.~~

34     ~~(b) This section shall apply in the same manner and to the same~~  
35 ~~periods as the federal amendments referred to in subdivision (a)~~  
36 ~~apply for federal purposes, except as otherwise provided.~~

37     ~~SEC. 4. Section 17131.12 of the Revenue and Taxation Code~~  
38 ~~is repealed.~~

39     ~~17131.12. (a) Section 139D of the Internal Revenue Code,~~  
40 ~~relating to Indian health care benefits, as added by Section 9021~~

1 of the Patient Protection and Affordable Care Act (Public Law  
2 111-148), shall apply, except as otherwise provided.

3 (b) This section shall apply to benefits and coverage provided  
4 after March 23, 2010.

5 (c) This section shall not be construed to create an inference  
6 with respect to the exclusion from gross income of either of the  
7 following:

8 (1) Benefits provided by an Indian tribe or tribal organization  
9 that are not within the scope of this section.

10 (2) Benefits provided prior to the effective date of the act adding  
11 this section.

12 *SEC. 5. Section 17131.14 of the Revenue and Taxation Code*  
13 *is repealed.*

14 17131.14. (a) For taxable years beginning on or after January  
15 1, 2011, Section 125(j) of the Internal Revenue Code, relating to  
16 simple cafeteria plans for small businesses, as added by Section  
17 9022 of the federal Patient Protection and Affordable Care Act  
18 (P.L. 111-148), shall apply, except as otherwise provided.

19 (b) For taxable years beginning on or after January 1, 2014,  
20 Section 125(f) of the Internal Revenue Code, relating to qualified  
21 benefits defined, as amended by Section 1515 of the federal Patient  
22 Protection and Affordable Care Act (P.L. 111-148), shall apply,  
23 except as otherwise provided.

24 *SEC. 6. Section 17134.1 of the Revenue and Taxation Code is*  
25 *repealed.*

26 17134.1. For taxable years beginning on or after January 1,  
27 2010, Section 108(f)(4) of the Internal Revenue Code, relating to  
28 payments under the National Health Service Corps loan repayment  
29 program and certain state loan repayment programs, as amended  
30 by Section 10908 of the Patient Protection and Affordable Care  
31 Act (Public Law 111-148), shall apply, except as otherwise  
32 provided.

33 *SEC. 7. Section 17144 of the Revenue and Taxation Code is*  
34 *amended to read:*

35 17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code,  
36 relating to general business credit, is modified by substituting “this  
37 part” in lieu of “Section 38 (relating to general business credit).”

38 (b) Section 108(b)(2)(G) of the Internal Revenue Code, relating  
39 to foreign tax credit carryovers, shall not apply.

1 (c) Section 108(b)(3)(B) of the Internal Revenue Code, relating  
2 to credit carryover reduction, is modified by substituting “11.1  
3 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In  
4 the case where more than one credit is allowable under this part,  
5 the credits shall be reduced on a pro rata basis.

6 (d) Section 108(g)(3)(B) of the Internal Revenue Code, relating  
7 to adjusted tax attributes, is modified by substituting “(\$9)” in lieu  
8 of “(\$3).”

9 (e) (1) If a taxpayer makes an election for federal income tax  
10 purposes under Section 108(c) of the Internal Revenue Code,  
11 relating to treatment of discharge of qualified real property business  
12 indebtedness, a separate election shall not be allowed under  
13 paragraph (3) of subdivision (e) of Section 17024.5 and the federal  
14 election shall be binding for purposes of this part.

15 (2) If a taxpayer has not made an election for federal income  
16 tax purposes under Section 108(c) of the Internal Revenue Code,  
17 relating to treatment of discharge of qualified real property business  
18 indebtedness, then the taxpayer shall not be allowed to make that  
19 election for purposes of this part.

20 (f) *Section 108(i) of the Internal Revenue Code, relating to*  
21 *deferral and ratable inclusion of income arising from business*  
22 *indebtedness discharged by the reacquisition of a debt instrument,*  
23 *shall not apply.*

24 *SEC. 8. Section 17201.1 of the Revenue and Taxation Code is*  
25 *repealed.*

26 ~~17201.1. (a) Section 162(l)(1) of the Internal Revenue Code,~~  
27 ~~relating to allowance of deduction, as amended by Section~~  
28 ~~1004(d)(2) of the Health Care and Education Reconciliation Act~~  
29 ~~of 2010 (Public Law 111-152), shall apply, except as otherwise~~  
30 ~~provided.~~

31 ~~(b) Section 162(l)(2)(B) of the Internal Revenue Code, relating~~  
32 ~~to other coverage, as amended by Section 1004(d)(3) of the Health~~  
33 ~~Care and Education Reconciliation Act of 2010 (Public Law~~  
34 ~~111-152), shall apply, except as otherwise provided.~~

35 ~~(e) This section shall apply in the same manner and to the same~~  
36 ~~periods as the federal amendments referred to in subdivision (a)~~  
37 ~~or subdivision (b), respectively, apply for federal purposes, except~~  
38 ~~as otherwise provided.~~

39 *SEC. 9. Section 17215 of the Revenue and Taxation Code is*  
40 *amended to read:*

1 17215. (a) Section 220(a) of the Internal Revenue Code,  
2 relating to deduction allowed, is modified to provide that the  
3 amount allowed as a deduction shall be an amount equal to the  
4 amount allowed to that individual as a deduction under Section  
5 220 of the Internal Revenue Code, relating to medical savings  
6 accounts, on the federal income tax return filed for the same taxable  
7 year by that individual.

8 (b) Section 220(f)(4) of the Internal Revenue Code, relating to  
9 additional tax on distributions not used for qualified medical  
10 expenses, is modified by substituting—~~“10~~ “12.5 percent” in lieu  
11 of—~~“15 percent.”~~ “20 percent.”

12 (c) *The amendments made to this section by the act adding this*  
13 *subdivision shall apply to disbursements made during taxable*  
14 *years beginning on or after January 1, 2016.*

15 *SEC. 10. Section 17240 is added to the Revenue and Taxation*  
16 *Code, to read:*

17 17240. *The fee imposed by Section 9008 of the Patient*  
18 *Protection and Affordable Care Act (Public Law 111-148), shall*  
19 *not be considered a tax described in Section 275(a)(6) of the*  
20 *Internal Revenue Code.*

21 *SEC. 11. Section 17241 is added to the Revenue and Taxation*  
22 *Code, to read:*

23 17241. (a) *Section 213(a) of the Internal Revenue Code,*  
24 *relating to allowance of deduction, is modified by substituting “7.5*  
25 *percent” for “10 percent.”*

26 (b) *Section 213(f) of the Internal Revenue Code, relating to*  
27 *special rule for 2013, 2014, 2015, and 2016, shall not apply.*

28 *SEC. 12. Section 17280.1 of the Revenue and Taxation Code*  
29 *is repealed.*

30 ~~17280.1. (a) Section 267(f)(3) of the Internal Revenue Code,~~  
31 ~~relating to loss deferral rules not to apply in certain cases, as~~  
32 ~~amended by Section 306 of the Regulated Investment Company~~  
33 ~~Modernization Act of 2010 (Public Law 111-325), shall apply,~~  
34 ~~except as otherwise provided.~~

35 ~~(b) This section shall apply to distributions on or after December~~  
36 ~~23, 2010.~~

37 *SEC. 13. Section 17322.1 of the Revenue and Taxation Code*  
38 *is repealed.*

39 ~~17322.1. (a) Section 302 of the Internal Revenue Code, relating~~  
40 ~~to distributions in redemption of stock, as amended by Section 306~~

1 of the Regulated Investment Company Modernization Act of 2010  
2 (Public Law 111-325), shall apply, except as otherwise provided.

3 (b) Section 316 of the Internal Revenue Code, relating to  
4 dividend defined, as amended by Section 305 of the Regulated  
5 Investment Company Modernization Act of 2010 (Public Law  
6 111-325), shall apply, except as otherwise provided.

7 (e) (1) Subdivision (a) shall apply to distributions on or after  
8 December 23, 2010.

9 (2) Subdivision (b) shall apply to distributions made in taxable  
10 years beginning on or after December 23, 2010.

11 *SEC. 14. Section 17323 is added to the Revenue and Taxation*  
12 *Code, to read:*

13 *17323. Section 382(n) of the Internal Revenue Code, relating*  
14 *to special rule for certain ownership changes, shall not apply.*

15 *SEC. 15. Section 18155 of the Revenue and Taxation Code is*  
16 *amended to read:*

17 18155. (a) A deduction shall not be allowed for capital loss  
18 carrybacks provided by Section 1212 of the Internal Revenue Code,  
19 relating to capital loss carrybacks and carryovers.

20 (b) Section 1212(a)(1)(C) of the Internal Revenue Code, as  
21 amended by Section 101 of the Regulated Investment Company  
22 Modernization Act of 2010 (Public Law 111-325), shall apply,  
23 except as otherwise provided.

24 (c) Section 1212(a)(3) of the Internal Revenue Code, relating  
25 to regulated investment companies, as amended by Section 101  
26 of the Regulated Investment Company Modernization Act of 2010  
27 (Public Law 111-325), shall apply, except as otherwise provided.

28 (d) Section 1222(10) of the Internal Revenue Code, relating to  
29 net capital loss, as amended by Section 101 of the Regulated  
30 Investment Company Modernization Act of 2010 (Public Law  
31 111-325), shall apply, except as otherwise provided.

32 (e) (1) Except as provided in paragraph (2), the amendments  
33 made to this section by the act adding this paragraph shall apply  
34 to net capital losses for taxable years beginning on or after  
35 December 23, 2010.

36 (2) Section 1212(a)(3)(B) of the Internal Revenue Code, relating  
37 to coordination with general rule, as added by Section 101 of the  
38 Regulated Investment Company Modernization Act of 2010 (Public  
39 Law 111-325), shall apply to taxable years beginning on or after  
40 December 23, 2010.

1     *SEC. 16. Section 19131.5 is added to the Revenue and Taxation*  
2     *Code, to read:*

3     19131.5. (a) *Section 6164 of the Internal Revenue Code,*  
4     *relating to extension of time for payment of taxes by corporations*  
5     *expecting carrybacks, shall apply, except as otherwise provided.*

6     (b) (1) *Section 6164 of the Internal Revenue Code is modified*  
7     *by substituting the phrase “Secretary or the Franchise Tax Board”*  
8     *for the word “Secretary” in each place it appears.*

9     (2) *Section 6164(a) of the Internal Revenue Code is modified*  
10    *by substituting the phrase “Part 11 (commencing with Section*  
11    *23001)” in lieu of the phrase “subtitle A.”*

12    (3) *Section 6164(b) of the Internal Revenue Code, relating to*  
13    *contents of statement, is modified by substituting the phrase*  
14    *“Section 24416.20” in lieu of the phrase “Section 172(b).”*

15    (4) *Section 6164(d)(2) of the Internal Revenue Code is modified*  
16    *by substituting the phrase “Section 19307.5” in lieu of the phrase*  
17    *“Section 6411.”*

18    (5) *Section 6164(h) of the Internal Revenue Code, relating to*  
19    *jeopardy, is modified as follows:*

20    (A) *By substituting the phrase “he or the Franchise Tax Board”*  
21    *for the word “he” in each place it appears.*

22    (B) *By substituting the phrase “him or the Franchise Tax*  
23    *Board” for the word “him” in each place it appears.*

24    (6) *Section 6164(i) of the Internal Revenue Code, relating to*  
25    *consolidated returns, is modified by substituting the phrase*  
26    *“combined report” in lieu of the phrase “consolidated return” in*  
27    *each place it appears.*

28    *SEC. 17. Section 19141.5 of the Revenue and Taxation Code*  
29    *is amended to read:*

30    19141.5. (a) (1) *Section 6038A of the Internal Revenue Code,*  
31    *relating to information with respect to certain foreign-owned*  
32    *corporations, shall apply.*

33    (2) *A penalty shall be imposed under this part for failure to*  
34    *furnish information or maintain records and that penalty shall be*  
35    *determined in accordance with Section 6038A of the Internal*  
36    *Revenue Code.*

37    (3) *Section 11314 of Public Law 101-508, relating to application*  
38    *of amendments made by Section 7403 of the Revenue*  
39    *Reconciliation Act of 1989 to taxable years beginning on or before*  
40    *July 10, 1989, shall apply.*

1 (4) Section 6038A(e) of the Internal Revenue Code, relating to  
2 enforcement of requests for certain records, is modified as follows:

3 (A) Each reference to Section 7602, 7603, or 7604 of the Internal  
4 Revenue Code shall instead refer to Section 19504.

5 (B) Each reference to “summons” shall instead refer to  
6 “subpoena duces tecum.”

7 (C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall  
8 refer to “superior courts of the State of California for the Counties  
9 of Los Angeles, Sacramento, and San Diego, and for the City and  
10 County of San Francisco,” instead of “United States district court  
11 for the district in which the person (to whom the summons is  
12 issued) resides or is found.”

13 (b) In the case of a corporation, each of the following shall  
14 apply:

15 (1) Section 6038B of the Internal Revenue Code, relating to  
16 notice of certain transfers to foreign persons, shall apply, except  
17 as otherwise provided.

18 (2) The information required to be filed with the Franchise Tax  
19 Board under this subdivision shall be a copy of the information  
20 required to be filed with the Internal Revenue Service.

21 (3) (A) A penalty shall be imposed under this part for failure  
22 to furnish information and that penalty shall be determined in  
23 accordance with Section 6038B of the Internal Revenue Code,  
24 except as otherwise provided.

25 (B) Subparagraph (A) shall not apply to any transfer described  
26 in Section 6038B(a)(1)(B) of the Internal Revenue Code.

27 (c) (1) Section 6038C of the Internal Revenue Code, relating  
28 to information with respect to foreign corporations engaged in  
29 United States business, shall apply.

30 (2) A penalty shall be imposed under this part for failure to  
31 furnish information or maintain records and that penalty shall be  
32 determined in accordance with Section 6038C of the Internal  
33 Revenue Code.

34 (3) Section 6038C(d) of the Internal Revenue Code, relating to  
35 enforcement of requests for certain records, is modified as follows:

36 (A) Each reference to Section 7602, 7603, or 7604 of the Internal  
37 Revenue Code shall instead refer to Section 19504.

38 (B) Each reference to “summons” shall instead refer to  
39 “subpoena duces tecum.”

1 (d) (1) Section 6038D of the Internal Revenue Code, relating  
 2 to information with respect to foreign financial assets, shall apply.

3 (2) A penalty shall be imposed under this part for failure to  
 4 furnish information and that penalty shall be determined in  
 5 accordance with Section 6038D of the Internal Revenue Code.

6 ~~(d)~~

7 (e) For purposes of this part, the information required to be filed  
 8 with the Franchise Tax Board pursuant to this section shall be a  
 9 copy of the information filed with the Internal Revenue Service.

10 ~~(e)~~

11 (f) For purposes of this section, each of the following shall apply:

12 (1) Section 7701(a)(4) of the Internal Revenue Code, relating  
 13 to the term “domestic,” shall apply.

14 (2) Section 7701(a)(5) of the Internal Revenue Code, relating  
 15 to the term “foreign,” shall apply.

16 (3) Section 7701(a)(30) of the Internal Revenue Code, relating  
 17 to the term “United States person,” shall apply. However, the term  
 18 “United States person” shall not include any corporation that is  
 19 not subject to the tax imposed under Chapter 2 (commencing with  
 20 Section 23101), Chapter 2.5 (commencing with Section 23400),  
 21 or Chapter 3 (commencing with Section 23501), of Part 11.

22 (g) The amendments made to this section by the act adding this  
 23 subdivision shall apply to taxable years beginning on or after  
 24 January 1, 2016.

25 SEC. 18. Section 19164 of the Revenue and Taxation Code is  
 26 amended to read:

27 19164. (a) (1) (A) An accuracy-related penalty shall be  
 28 imposed under this part and shall be determined in accordance  
 29 with Section 6662 of the Internal Revenue Code, relating to  
 30 imposition of accuracy-related penalty on underpayments, ~~as~~  
 31 ~~amended by Section 1409(b) of the Health Care and Education~~  
 32 ~~Reconciliation Act of 2010 (Public Law 111-152)~~, except as  
 33 otherwise provided.

34 (B) (i) Except for understatements relating to reportable  
 35 transactions to which Section 19164.5 applies, in the case of any  
 36 proposed deficiency assessment issued after the last date of the  
 37 amnesty period specified in Chapter 9.1 (commencing with Section  
 38 19730) for any taxable year beginning prior to January 1, 2003,  
 39 the penalty specified in Section 6662(a) of the Internal Revenue



1 Code shall be computed by substituting “40 percent” for “20  
2 percent.”

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

13 (2) With respect to corporations, this subdivision ~~applies~~ *shall*  
14 *apply* to all of the following:

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

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

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

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

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

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

36 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is  
37 modified to additionally provide that the excess determined under  
38 Section 6662(d)(2)(A) of the Internal Revenue Code shall be  
39 determined without regard to items to which Section 19164.5

1 applies and without regard to items with respect to which a penalty  
2 is imposed by Section 19774.

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

6 (b) For purposes of Section 6662(d) of the Internal Revenue  
7 Code, Section 6664 of the Internal Revenue Code, Section  
8 6694(a)(1) of the Internal Revenue Code, and this part, the  
9 Franchise Tax Board may prescribe a list of positions for which  
10 the Franchise Tax Board believes there is not substantial authority  
11 or there is no reasonable belief that the tax treatment is more likely  
12 than not the proper tax treatment. That list (and any revisions  
13 thereof) shall be published through the use of Franchise Tax Board  
14 Notices or other published positions. In addition, the “listed  
15 transactions” identified and published pursuant to the preceding  
16 sentence shall be published on the ~~Internet~~ Web site of the  
17 Franchise Tax Board.

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

22 (d) (1) Section 6664 of the Internal Revenue Code, relating to  
23 definitions and special rules, ~~applies~~, *shall apply*, except as  
24 otherwise provided.

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

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

30 (e) Except for purposes of subdivision (e) of Section 19774,  
31 Section 6662(b)(6) of the Internal Revenue Code ~~does~~ *shall* not  
32 apply.

33 (f) Except for purposes of subdivision (e) of Section 19774,  
34 Section 6662(i) of the Internal Revenue Code, relating to increase  
35 in penalty in case of nondisclosed noneconomic substance  
36 transactions, ~~does~~ *shall* not apply.

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

1 (h) The amendments made to this section by ~~the act adding this~~  
2 ~~subdivision Chapter 14 of the Statutes of 2011~~ shall apply to  
3 notices mailed on or after January 1, 2012.

4 *SEC. 19. Section 19167 of the Revenue and Taxation Code is*  
5 *amended to read:*

6 19167. A penalty shall be imposed under this section for any  
7 of the following:

8 (a) In accordance with Section 6695(a) of the Internal Revenue  
9 Code, ~~for relating to~~ failure to furnish a copy ~~of the return to the~~  
10 taxpayer, as required by Section 18625, *except as otherwise*  
11 *provided.*

12 (b) In accordance with Section 6695(c) of the Internal Revenue  
13 Code, ~~for relating to~~ failure to furnish an identifying number, as  
14 required by Section 18624, *except as otherwise provided.*

15 (c) In accordance with Section 6695(d) of the Internal Revenue  
16 Code, ~~for relating to~~ failure to retain a copy or list, as required by  
17 Section 18625 or for failure to retain an electronic filing  
18 declaration, as required by Section 18621.5, *except as otherwise*  
19 *provided.*

20 (d) *Section 6695(h) of the Internal Revenue Code, relating to*  
21 *adjustment for inflation, shall not apply.*

22 ~~(d)~~

23 (e) Failure to register as a tax preparer with the California Tax  
24 Education Council, as required by Section 22253 of the Business  
25 and Professions Code, unless it is shown that the failure was due  
26 to reasonable cause and not due to willful neglect.

27 (1) The amount of the penalty under this subdivision for the  
28 first failure to register is two thousand five hundred dollars  
29 (\$2,500). This penalty shall be waived if proof of registration is  
30 provided to the Franchise Tax Board within 90 days from the date  
31 notice of the penalty is mailed to the tax preparer.

32 (2) The amount of the penalty under this subdivision for a failure  
33 to register, other than the first failure to register, is five thousand  
34 dollars (\$5,000).

35 ~~(e)~~

36 (f) The Franchise Tax Board shall not impose the penalties  
37 authorized by subdivision ~~(d)~~ (e) until either one of the following  
38 has occurred:

39 (1) Commencing January 1, 2006, and continuing each year  
40 thereafter, there is an appropriation in the Franchise Tax Board's

1 annual budget to fund the costs associated with the penalty  
2 authorized by subdivision ~~(d)~~ (e).

3 (2) (A) An agreement has been executed between the California  
4 Tax Education Council and the Franchise Tax Board that provides  
5 that an amount equal to all first year costs associated with the  
6 penalty authorized by subdivision ~~(d)~~ (e) shall be received by the  
7 Franchise Tax Board. For purposes of this subparagraph, first year  
8 costs include, but are not limited to, costs associated with the  
9 development of processes or systems changes, if necessary, and  
10 labor.

11 (B) An agreement has been executed between the California  
12 Tax Education Council and the Franchise Tax Board that provides  
13 that the annual costs incurred by the Franchise Tax Board  
14 associated with the penalty authorized by subdivision ~~(d)~~ (e) shall  
15 be reimbursed by the California Tax Education Council to the  
16 Franchise Tax Board.

17 (C) Pursuant to the agreement described in subparagraph (A),  
18 the Franchise Tax Board has received an amount equal to the first  
19 year costs described in that subparagraph.

20 *SEC. 20. Section 19172 of the Revenue and Taxation Code is*  
21 *amended to read:*

22 19172. (a) In addition to the penalty imposed by Section 19706  
23 (relating to willful failure to file return, supply information, or pay  
24 tax), if any partnership required to file a return under Section 18633  
25 or 18633.5 for any taxable year does either of the following:

26 (1) Fails to file the return at the time prescribed therefor  
27 (determined with regard to any extension of time for filing).

28 (2) Files a return which fails to show the information required  
29 under Section 18633 or 18633.5, that partnership shall be liable  
30 for a penalty determined under subdivision (b) for each month (or  
31 fraction thereof) during which that failure continues (but not to  
32 exceed 12 months), unless it is shown that the failure is due to  
33 reasonable cause.

34 (b) For purposes of subdivision (a), the amount determined  
35 under this subdivision for any month is the product of the  
36 following:

37 (1) ~~Eighteen dollars (\$18);~~ *Thirty-nine dollars (\$39)*, multiplied  
38 by

39 (2) The number of persons who were partners in the partnership  
40 during any part of the taxable year.

1 (c) The penalty imposed by subdivision (a) shall be assessed  
2 against the partnership.

3 (d) Article 3 (commencing with Section 19031) of this chapter  
4 (relating to deficiency assessments) shall not apply with respect  
5 to the assessment or collection of any penalty imposed by  
6 subdivision (a).

7 (e) The amendments made to this section by ~~the act adding this~~  
8 ~~subdivision Chapter 14 of the Statutes of 2010~~ shall apply to returns  
9 required to be filed after ~~the effective date of the act adding this~~  
10 ~~subdivision January 1, 2011~~.

11 (f) *The amendments made to this section by the act adding this*  
12 *subdivision shall apply for taxable years beginning on or after*  
13 *January 1, 2016.*

14 *SEC. 21. Section 19172.5 of the Revenue and Taxation Code*  
15 *is amended to read:*

16 19172.5. (a) In addition to the penalty imposed by Section  
17 19706, if any “S” corporation required to file a return under Section  
18 18601 for any taxable year fails to file the return at the time  
19 prescribed therefor (determined with regard to any extension of  
20 time for filing), or files a return that fails to show the information  
21 required under Section 18601, then that “S” corporation shall be  
22 liable for a penalty determined under subdivision (b) for each  
23 month (or fraction thereof) during which that failure continues  
24 (but not to exceed 12 months), unless that failure is due to  
25 reasonable cause.

26 (b) (1) For purposes of subdivision (a), the amount determined  
27 under this subdivision for any month is the product of the  
28 following:

29 (2) ~~Eighteen~~ *Thirty-nine* dollars ~~(\$18)~~, (\$39), multiplied by the  
30 number of persons who were shareholders in the “S” corporation  
31 during any part of the taxable year.

32 (c) The penalty imposed by subdivision (a) shall be assessed  
33 against the “S” corporation.

34 (d) Article 3 (commencing with Section 19031), relating to  
35 deficiency assessments, shall not apply with respect to the  
36 assessment or collection of any penalty imposed by subdivision  
37 (a).

38 (e) This section shall apply to returns required to be filed after  
39 ~~the effective date of the act adding this section.~~ *January 1, 2011.*

1 (f) *The amendments made to this section by the act adding this*  
 2 *subdivision shall apply to returns for taxable years beginning on*  
 3 *or after January 1, 2016.*

4 SEC. 22. *Section 19183 of the Revenue and Taxation Code is*  
 5 *amended to read:*

6 19183. (a) (1) *A penalty shall be imposed for failure to file*  
 7 *correct information returns, as required by this part, and that*  
 8 *penalty shall be determined in accordance with Section 6721 of*  
 9 *the Internal Revenue-Code Code, relating to failure to file correct*  
 10 *information returns.*

11 (2) *Section 6721(e) of the Internal Revenue-Code Code, relating*  
 12 *to penalty in case of intentional disregard, is modified to the extent*  
 13 *that the reference to Section 6041A(b) of the Internal Revenue*  
 14 *Code Code, relating to direct sales of \$5,000 or more, shall not*  
 15 *apply.*

16 (3) *Section 6721(f)(1) of the Internal Revenue Code is modified*  
 17 *to substitute the phrase “For each fifth calendar year beginning*  
 18 *after 2014” for the phrase “In the case of any failure relating to*  
 19 *a return required to be filed in a calendar year beginning after*  
 20 *2014.”*

21 (b) (1) *A penalty shall be imposed for failure to furnish correct*  
 22 *payee statements as required by this part, and that penalty shall be*  
 23 *determined in accordance with Section 6722 of the Internal*  
 24 *Revenue-Code Code, relating to failure to furnish correct payee*  
 25 *statements.*

26 (2) *Section 6722(c) of the Internal Revenue-Code Code, relating*  
 27 *to exception for de minimus failures, is modified to the extent that*  
 28 *the references to Sections 6041A(b) and 6041A(e) of the Internal*  
 29 *Revenue-Code Code, relating to direct sales of \$5,000 or more,*  
 30 *and statements to be furnished to persons with respect to whom*  
 31 *information is required to be furnished, shall not apply.*

32 (3) *Section 6722(f)(1) of the Internal Revenue Code is modified*  
 33 *to substitute the phrase “For each fifth calendar year beginning*  
 34 *after 2014” for the phrase “In the case of any failure relating to*  
 35 *a return required to be filed in a calendar year beginning after*  
 36 *2014.”*

37 (c) *A penalty shall be imposed for failure to comply with other*  
 38 *information reporting requirements under this part, and that penalty*  
 39 *shall be determined in accordance with Section 6723 of the Internal*

1 ~~Revenue Code~~. *Code, relating to failure to comply with other*  
2 *information reporting requirements.*

3 (d) (1) The provisions of Section 6724 of the Internal Revenue  
4 ~~Code~~ *Code, relating to waiver, waiver; definitions, and special*  
5 *rules, shall apply, except as otherwise provided.*

6 (2) Section 6724(d)(1) of the Internal Revenue ~~Code~~ *Code,*  
7 *relating to information return, is modified as follows:*

8 (A) The following references are substituted:

9 (i) Subdivision (a) of Section 18640, in lieu of Section  
10 6044(a)(1) of the Internal Revenue Code.

11 (ii) Subdivision (a) of Section 18644, in lieu of Section 6050A(a)  
12 of the Internal Revenue ~~Code~~. *Code, relating to reports.*

13 (B) References to Sections ~~4093(e)(4), 4093(e),~~ 4101(d),  
14 6041(b), 6041A(b), 6045(d), 6051(d), and 6053(c)(1) of the Internal  
15 Revenue Code shall not apply.

16 (C) The term “information return” shall also include both of the  
17 following:

18 (i) The return required by paragraph (1) of subdivision (i) of  
19 Section 18662.

20 (ii) The return required by subdivision (a) of Section 18631.7.

21 (3) Section 6724(d)(2) of the Internal Revenue ~~Code~~ *Code,*  
22 *relating to payee statement, is modified as follows:*

23 (A) The following references are substituted:

24 (i) Subdivision (b) of Section 18640, in lieu of Section 6044(e)  
25 of the Internal Revenue ~~Code~~. *Code, relating to statements to be*  
26 *furnished to persons with respect to whom information is required.*

27 (ii) Subdivision (b) of Section 18644, in lieu of Section  
28 6050A(b) of the Internal Revenue ~~Code~~. *Code, relating to written*  
29 *statement.*

30 (B) References to Sections ~~4093(e)(4)(B),~~ 6031(b), 6037(b),  
31 6041A(e), 6045(d), 6051(d), 6053(b), and 6053(c) of the Internal  
32 Revenue Code shall not apply.

33 (C) The term “payee statement” shall also include the statement  
34 required by paragraph (2) of subdivision (i) of Section 18662.

35 (e) In the case of each failure to provide a written explanation  
36 as required by Section 402(f) of the Internal Revenue Code,  
37 *relating to written explanation to recipients of distributions eligible*  
38 *for rollover treatment, at the time prescribed therefor, unless it is*  
39 *shown that the failure is due to reasonable cause and not to willful*  
40 *neglect, there shall be paid, on notice and demand of the Franchise*

1 Tax Board and in the same manner as tax, by the person failing to  
2 provide that written explanation, an amount equal to ten dollars  
3 (\$10) for each failure, but the total amount imposed on that person  
4 for all those failures during any calendar year shall not exceed five  
5 thousand dollars (\$5,000).

6 (f) Any penalty imposed by this part shall be paid on notice and  
7 demand by the Franchise Tax Board and in the same manner as  
8 tax.

9 (g) *The amendments made to this section by the act adding this*  
10 *subdivision shall apply to information returns required to be filed*  
11 *on or after January 1, 2016.*

12 *SEC. 23. Section 19772 of the Revenue and Taxation Code is*  
13 *amended to read:*

14 19772. (a) Section 6707A of the Internal Revenue Code,  
15 relating to penalty for failure to include reportable transactions  
16 information with a return, shall apply, except as otherwise  
17 provided.

18 ~~(b) The penalty amounts in Section 6707A(b) of the Internal~~  
19 ~~Revenue Code shall not apply, and in lieu thereof, the following~~  
20 ~~shall apply:~~

21 ~~(1) Except as provided in paragraph (2), the amount of the~~  
22 ~~penalty shall be fifteen thousand dollars (\$15,000).~~

23 ~~(2) The amount of the penalty with respect to a listed transaction~~  
24 ~~shall be thirty thousand dollars (\$30,000).~~

25 (b) (1) *Section 6707A(b)(1) of the Internal Revenue Code*  
26 *relating to amount of penalty is modified by substituting the phrase*  
27 *“or which would have resulted from such transaction if such*  
28 *transaction were respected for state tax purposes” for the phrase*  
29 *“or which would have resulted from such transaction if such*  
30 *transaction were respected for Federal tax purposes.”*

31 (2) *The penalty amounts in Section 6707A(b)(2)(A) of the*  
32 *Internal Revenue Code are modified by substituting “\$30,000*  
33 *(\$15,000” for “\$200,000 (\$100,000.”*

34 (3) *The penalty amounts in Section 6707A(b)(2)(B) of the*  
35 *Internal Revenue Code are modified by substituting “\$15,000*  
36 *(\$5,000” for “\$50,000 (\$10,000.”*

37 (4) *The penalty amounts in Section 6707A(b)(3) of the Internal*  
38 *Revenue Code relating to minimum penalty are modified by*  
39 *substituting “\$2,500 (\$1,250” for “\$10,000 (\$5,000.”*



1 (c) (1) Section 6707A(c)(1) of the Internal Revenue Code  
2 *relating to reportable transaction* is modified to include reportable  
3 transactions within the meaning of paragraph (3) of subdivision  
4 (a) of Section 18407.

5 (2) Section 6707A(c)(2) of the Internal Revenue Code *relating*  
6 *to listed transaction* is modified to include listed transactions within  
7 the meaning of paragraph (4) of subdivision (a) of Section 18407.

8 (d) The penalty under this section only applies to taxpayers with  
9 taxable income greater than two hundred thousand dollars  
10 (\$200,000).

11 (e) Section 6707A(e) of the Internal Revenue Code, relating to  
12 a penalty reported to the Securities and Exchange Commission,  
13 shall not apply.

14 (f) Section 6707A(d) of the Internal Revenue Code, relating to  
15 ~~the~~ authority to rescind a penalty, shall not apply, and in lieu  
16 thereof, the following shall apply:

17 (1) The Chief Counsel of the Franchise Tax Board may rescind  
18 all or any portion of any penalty imposed by this section with  
19 respect to any violation if all of the following apply:

20 (A) The violation is with respect to a reportable transaction  
21 other than a listed transaction.

22 (B) The person on whom the penalty is imposed has a history  
23 of complying with the requirements of this part and Part 10  
24 (commencing with Section 17001) or Part 11 (commencing with  
25 Section 23001).

26 (C) It is shown that the violation is due to an unintentional  
27 mistake of fact.

28 (D) Imposing the penalty would be against equity and good  
29 conscience.

30 (E) Rescinding the penalty would promote compliance with the  
31 requirements of this part and Part 10 (commencing with Section  
32 17001) or Part 11 (commencing with Section 23001) and effective  
33 tax administration.

34 (2) The exercise of authority under paragraph (1) shall be at the  
35 sole discretion of the Chief Counsel of the Franchise Tax Board  
36 and may not be delegated.

37 (3) Notwithstanding any other law or rule of law, any  
38 determination under this subdivision may not be reviewed in any  
39 administrative or judicial proceeding.

1 (g) Article 3 (commencing with Section 19031) of Chapter 4  
 2 (relating to deficiency assessments) shall not apply with respect  
 3 to the assessment or collection of any penalty imposed under this  
 4 section.

5 (h) The penalty imposed by this section is in addition to any  
 6 penalty imposed under Part 10 (commencing with Section 17001),  
 7 Part 11 (commencing with Section 23001), or this part.

8 (i) *The amendments made to this section by the act adding this*  
 9 *subdivision shall apply to penalties assessed on or after January*  
 10 *1, 2016.*

11 *SEC. 24. Section 23701i of the Revenue and Taxation Code is*  
 12 *amended to read:*

13 23701i. ~~(a)~~—A voluntary employees’ beneficiary association  
 14 described in Section 501(c)(9) of the Internal Revenue Code, as  
 15 amended by Section 1004(d)(4) of the Health Care and Education  
 16 Reconciliation Act of 2010 (Public Law 111-152). *Code.*

17 ~~(b)~~—~~The amendments made to this section by the act adding this~~  
 18 ~~subdivision shall apply in the same manner and to the same periods~~  
 19 ~~as the federal amendments referred to in subdivision (a) apply for~~  
 20 ~~federal purposes.~~

21 *SEC. 25. Section 24307 of the Revenue and Taxation Code is*  
 22 *amended to read:*

23 24307. (a) Section 108 of the Internal Revenue Code, relating  
 24 to income from discharge of indebtedness, shall apply, except as  
 25 otherwise provided.

26 (b) Section 108(b)(2)(B) of the Internal Revenue Code, relating  
 27 to general business credit, is modified by substituting “this part”  
 28 in lieu of “Section 38 (relating to general business credit).”

29 (c) Section 108(b)(2)(G) of the Internal Revenue Code, relating  
 30 to foreign tax credit carryovers, shall not apply.

31 (d) Section 108(b)(3)(B) of the Internal Revenue Code, relating  
 32 to credit carryover reduction, is modified by substituting “11.1  
 33 cents” in lieu of “33 ½ cents” in each place in which it appears. In  
 34 the case where more than one credit is allowable under this part,  
 35 the credits shall be reduced on a pro rata basis.

36 (e) Section 108(g)(3)(B) of the Internal Revenue Code, relating  
 37 to adjusted tax attributes, is modified by substituting “\$9” in lieu  
 38 of “\$3.”

39 (f) (1) The amendments to Section 108 of the Internal Revenue  
 40 Code made by Section 13150 of the Revenue Reconciliation Act

1 of 1993 (Public Law 103-66), relating to exclusion from gross  
2 income for income from discharge of qualified real property  
3 business indebtedness, shall apply to discharges occurring on or  
4 after January 1, 1996, in taxable years beginning on or after January  
5 1, 1996.

6 (2) If a taxpayer makes an election for federal income tax  
7 purposes under Section 108(c) of the Internal Revenue Code,  
8 relating to treatment of discharge of qualified real property business  
9 indebtedness, a separate election shall not be allowed under  
10 paragraph (3) of subdivision (e) of Section 23051.5 and the federal  
11 election shall be binding for purposes of this part.

12 (3) If a taxpayer has not made an election for federal income  
13 tax purposes under Section 108(c) of the Internal Revenue Code,  
14 relating to treatment of discharge of qualified real property business  
15 indebtedness, then the taxpayer shall not be allowed to make that  
16 election for purposes of this part.

17 (g) The amendments to Section 108 of the Internal Revenue  
18 Code made by Section 13226 of the Revenue Reconciliation Act  
19 of 1993 (Public Law 103-66), relating to modifications of discharge  
20 of indebtedness provisions, shall apply to discharges occurring on  
21 or after January 1, 1996, in taxable years beginning on or after  
22 January 1, 1996.

23 (h) The amendments made to Section 108(d)(7)(A) of the  
24 Internal Revenue Code, relating to certain provisions to be applied  
25 at the corporate level by Section 402 of the Job Creation and  
26 Worker Assistance Act of 2002 (Public Law 107-147), shall apply  
27 to discharges of indebtedness after December 31, 2001, in taxable  
28 years ending after that date. This subdivision shall not apply to  
29 any discharge of indebtedness made before March 1, 2002, pursuant  
30 to a plan of reorganization filed with a bankruptcy court on or  
31 before October 11, 2001.

32 (i) *Section 108(i) of the Internal Revenue Code, relating to*  
33 *deferral and ratable inclusion of income arising from business*  
34 *indebtedness discharged by the reacquisition of a debt instrument,*  
35 *shall not apply.*

36 *SEC. 26. Section 24427 of the Revenue and Taxation Code is*  
37 *amended to read:*

38 24427. ~~(a)~~ Section 267 of the Internal Revenue Code, relating  
39 to losses, expenses, and interest with respect to transactions

1 between related taxpayers, shall apply, except as otherwise  
 2 provided.

3 ~~(b) Section 267(f)(3) of the Internal Revenue Code, relating to~~  
 4 ~~loss deferral rules not to apply in certain cases, as amended by~~  
 5 ~~Section 306 of the Regulated Investment Company Modernization~~  
 6 ~~Act of 2010 (Public Law 111-325), shall apply, except as otherwise~~  
 7 ~~provided.~~

8 ~~(c) The amendments made to this section by the act adding this~~  
 9 ~~subdivision shall apply to distributions on or after December 23,~~  
 10 ~~2010.~~

11 *SEC. 27. Section 24439 of the Revenue and Taxation Code is*  
 12 *amended to read:*

13 24439. (a) No deduction shall be allowed to the issuing  
 14 corporation for any premium paid or incurred upon the repurchase  
 15 of a bond, debenture, note, or certificate or other evidence of  
 16 indebtedness which is convertible into the stock of the issuing  
 17 corporation, or a corporation in ~~control of, or the same~~  
 18 ~~parent-subsidiary controlled by, group, within the meaning of~~  
 19 ~~Section 1563(a)(1) of the Internal Revenue Code, relating to~~  
 20 ~~parent-subsidiary controlled group, as the issuing corporation, to~~  
 21 ~~the extent the repurchase price exceeds an amount equal to the~~  
 22 ~~adjusted issue price plus a normal call premium on bonds or other~~  
 23 ~~evidences of indebtedness which are not convertible. The preceding~~  
 24 ~~sentence shall not apply to the extent that the corporation can~~  
 25 ~~demonstrate to the satisfaction of the Franchise Tax Board that~~  
 26 ~~such excess is attributable to the cost of borrowing and is not~~  
 27 ~~attributable to the conversion feature.~~

28 ~~(b) (1) The~~

29 ~~(b) For purposes of subdivision (a), the adjusted issue price is~~  
 30 ~~the issue price (as price, as defined in Sections 1273(b) and 1274~~  
 31 ~~of the Internal Revenue Code) Code, increased by any amount of~~  
 32 ~~discount deducted before repurchase, or, in the case of bonds or~~  
 33 ~~other evidences of indebtedness issued after February 28, 1913,~~  
 34 ~~decreased by any amount of premium included in gross income~~  
 35 ~~before repurchase by the issuing corporation.~~

36 ~~(2) The term “control” has the meaning assigned to such term~~  
 37 ~~by Section 24564.~~

38 (c) The provisions of this section shall not apply to a convertible  
 39 bond or other convertible evidence of indebtedness repurchased  
 40 pursuant to a binding obligation incurred on or before April 22,

1 1969, to repurchase such bond or other evidence of indebtedness  
2 at a specified call premium, but no inference shall be drawn from  
3 the fact that this section does not apply to the repurchase of such  
4 convertible bond or other convertible evidence of indebtedness.

5 *(d) The amendments made to this section by the act adding this*  
6 *subdivision shall apply to repurchases on or after January 1, 2015.*

7 *SEC. 28. Section 24452.1 of the Revenue and Taxation Code*  
8 *is repealed.*

9 ~~24452.1. (a) Section 302 of the Internal Revenue Code, relating~~  
10 ~~to distributions in redemption of stock, as amended by Section 306~~  
11 ~~of the Regulated Investment Company Modernization Act of 2010~~  
12 ~~(Public Law 111-325), shall apply, except as otherwise provided.~~

13 ~~(b) Section 316 of the Internal Revenue Code, relating to~~  
14 ~~dividend defined, as amended by Section 305 of the Regulated~~  
15 ~~Investment Company Modernization Act of 2010 (Public Law~~  
16 ~~111-325), shall apply, except as otherwise provided.~~

17 ~~(e) (1) Subdivision (a) shall apply to distributions on or after~~  
18 ~~December 23, 2010.~~

19 ~~(2) Subdivision (b) shall apply to distributions made in taxable~~  
20 ~~years beginning on or after December 23, 2010.~~

21 *SEC. 29. Section 24454 is added to the Revenue and Taxation*  
22 *Code, to read:*

23 *24454. Section 304(b)(5)(B) of the Internal Revenue Code,*  
24 *relating to special rule in case of foreign acquiring corporation,*  
25 *shall apply to acquisitions on or after January 1, 2015.*

26 *SEC. 30. Section 24459 is added to the Revenue and Taxation*  
27 *Code, to read:*

28 *24459. Section 382(n) of the Internal Revenue Code, relating*  
29 *to special rule for certain ownership changes, shall not apply.*

30 *SEC. 31. Section 24870 of the Revenue and Taxation Code is*  
31 *amended to read:*

32 ~~24870. (a) (1) Subchapter M of Chapter 1 of Subtitle A of the~~  
33 ~~Internal Revenue Code, relating to regulated investment companies~~  
34 ~~and real estate investment trusts, shall apply, except as otherwise~~  
35 ~~provided in this part.~~

36 ~~(2) Part 1 of Subchapter M of Chapter 1 of Subtitle A of the~~  
37 ~~Internal Revenue Code, relating to regulated investment companies,~~  
38 ~~as amended by the Regulated Investment Company Modernization~~  
39 ~~Act of 2010 (Public Law 111-325), shall apply, except as otherwise~~  
40 ~~provided.~~

1 ~~(b) (1) Except as provided in paragraph (2), the amendments~~  
2 ~~made to this section by the act adding this paragraph shall apply~~  
3 ~~to taxable years beginning on or after December 23, 2010.~~

4 ~~(2) (A) Section 851 of the Internal Revenue Code, relating to~~  
5 ~~definition of regulated investment company, as amended by Section~~  
6 ~~201 of the Regulated Investment Company Modernization Act of~~  
7 ~~2010 (Public Law 111-325), and Section 852(b)(2)(G) of the~~  
8 ~~Internal Revenue Code, as amended by Section 201 of the~~  
9 ~~Regulated Investment Company Modernization Act of 2010 (Public~~  
10 ~~Law 111-325), shall apply to taxable years with respect to which~~  
11 ~~the due date (determined with regard to any extensions) of the~~  
12 ~~return of tax for such taxable year is on or after December 23,~~  
13 ~~2010.~~

14 ~~(B) Section 852(b)(4) of the Internal Revenue Code, relating to~~  
15 ~~loss on sale or exchange of stock held six months or less, as~~  
16 ~~amended by Section 309 of the Regulated Investment Company~~  
17 ~~Modernization Act of 2010 (Public Law 111-325), shall apply to~~  
18 ~~losses incurred on shares of stock for which the taxpayer's holding~~  
19 ~~period begins on or after December 23, 2010.~~

20 ~~(C) Section 852(f)(1)(C) of the Internal Revenue Code, as~~  
21 ~~amended by Section 502 of the Regulated Investment Company~~  
22 ~~Modernization Act of 2010 (Public Law 111-325), shall apply to~~  
23 ~~charges incurred in taxable years beginning on or after December~~  
24 ~~23, 2010.~~

25 ~~(D) Section 855(a) of the Internal Revenue Code, relating to~~  
26 ~~general rule, as amended by Section 304 of the Regulated~~  
27 ~~Investment Company Modernization Act of 2010 (Public Law~~  
28 ~~111-325), shall apply to distributions in taxable years beginning~~  
29 ~~on or after December 23, 2010.~~

30 *SEC. 32. Section 24871 of the Revenue and Taxation Code is*  
31 *amended to read:*

32 24871. (a) (1) Section 852(b)(1) of the Internal Revenue Code,  
33 relating to imposition of tax on regulated investment companies,  
34 *does shall* not apply.

35 (2) Every regulated investment company shall be subject to the  
36 taxes imposed under Chapter 2 (commencing with Section 23101)  
37 and Chapter 3 (commencing with Section 23501), except that its  
38 “net income” shall be equal to its “investment company income,”  
39 as defined in subdivision (b).

1 (3) (A) Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code  
2 is modified by substituting “\$12,500” for “\$50,000.”

3 (B) Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is  
4 modified by substituting the phrase “the rate of tax specified in  
5 Section 23151” for the phrase “the highest rate of tax specified in  
6 section 11” contained therein.

7 (C) Section 851(d)(2)(C)(iii) of the Internal Revenue Code,  
8 relating to administrative provisions, is modified by substituting  
9 the phrase “Article 3 of Part 10.2 (commencing with Section  
10 19031), a tax imposed by this subparagraph shall be treated as a  
11 tax with respect to which the deficiency procedures of such article  
12 apply” for the phrase “subtitle F, a tax imposed by this  
13 subparagraph shall be treated as an excise tax with respect to which  
14 the deficiency procedures of such subtitle apply” contained therein.

15 (D) Section 851(i)(2) of the Internal Revenue Code, relating to  
16 imposition of tax on failures, shall not apply.

17 (b) “Investment company income” means investment company  
18 taxable income, as defined in Section 852(b)(2) of the Internal  
19 Revenue Code, modified as follows:

20 (1) Section 852(b)(2)(A) of the Internal Revenue Code, relating  
21 to an exclusion for net capital gain, does not apply.

22 (2) Section 852(b)(2)(B) of the Internal Revenue Code, relating  
23 to net operating losses, is modified to deny the deduction allowed  
24 under Sections 24416 and 24416.1, in lieu of denying the deduction  
25 allowed by Section 172 of the Internal Revenue Code.

26 (3) In lieu of the provision of Section 852(b)(2)(C) of the  
27 Internal Revenue Code, relating to special deductions for  
28 corporations, no deduction shall be allowed under Sections 24402,  
29 24406, 24410, and 25106.

30 (4) ~~(A)~~—The deduction for dividends paid, under Section  
31 852(b)(2)(D) of the Internal Revenue Code, is modified to allow  
32 capital gain dividends and exempt interest dividends (to the extent  
33 that interest is included in gross income under this part) to be  
34 included in the computation of the deduction.

35 ~~(B)~~—For purposes of this paragraph, Section 562(e) of the Internal  
36 Revenue Code, relating to preferential dividends, as amended by  
37 Section 307 of the Regulated Investment Company Modernization  
38 Act of 2010 (Public Law 111-325), shall apply.

39 (c) Section 852(b)(3)(A) of the Internal Revenue Code, relating  
40 to capital gains, does *imposition of tax, shall* not apply.

1 (d) (1) Section 852(b)(5) of the Internal Revenue Code, relating  
 2 to exempt-interest dividends, is modified by substituting the phrase  
 3 “that, when held by an individual, the interest therefrom is exempt  
 4 from taxation by this state” for the phrase “described in section  
 5 103(a)” contained therein.

6 (2) Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code,  
 7 relating to exempt interest, is modified by substituting the phrase  
 8 “on obligations that, if held by an individual, is exempt from  
 9 taxation by this state, over the amounts disallowed as deductions  
 10 under subdivision (b) of Section 24360 or Section 24425” for the  
 11 phrase “excludable from gross income under section 103(a) over  
 12 the amounts disallowed as deductions under sections 265 and  
 13 171(a)(2)” contained therein.

14 (3) Section 852(b)(5)(B) of the Internal Revenue Code, relating  
 15 to treatment of exempt-interest dividends by shareholders, ~~does~~  
 16 *shall* not apply.

17 (e) Section 854 of the Internal Revenue Code, relating to  
 18 limitations applicable to dividends received from regulated  
 19 investment companies, is modified to refer to Sections 24402,  
 20 24406, 24410, and 25106, in lieu of Section 243 of the Internal  
 21 Revenue Code.

22 (f) Section 852(g)(1)(A) of the Internal Revenue Code is  
 23 modified by substituting the phrase “subdivision (a) of Section  
 24 17145” for the phrase “the first sentence of subsection (b)(5)”  
 25 contained therein.

26 ~~(g) (1) Except as provided in paragraphs (2) and (3), the~~  
 27 ~~amendments made to this section by the act adding this subdivision~~  
 28 ~~shall apply to taxable years with respect to which the due date~~  
 29 ~~(determined with regard to any extensions) of the return of tax for~~  
 30 ~~such taxable year is on or after December 23, 2010.~~

31 ~~(2) Subparagraph (B) of paragraph (4) of subdivision (b) shall~~  
 32 ~~apply to distributions in taxable years beginning on or after~~  
 33 ~~December 23, 2010.~~

34 ~~(3) Subdivision (f) shall apply to taxable years beginning on or~~  
 35 ~~after December 23, 2010.~~

36 *SEC. 33. Section 24871.1 of the Revenue and Taxation Code*  
 37 *is repealed.*

38 ~~24871.1. (a) Section 860(f)(2)(B) of the Internal Revenue~~  
 39 ~~Code, as amended by Section 301 of the Regulated Investment~~



1 Company Modernization Act of 2010 (Public Law 111-325), shall  
2 apply, except as otherwise provided.

3 ~~(b) This section shall apply to taxable years beginning on or~~  
4 ~~after December 23, 2010.~~

5 *SEC. 34. Section 24990.5 of the Revenue and Taxation Code*  
6 *is amended to read:*

7 24990.5. (a) Section 1201 of the Internal Revenue Code,  
8 relating to alternative tax for corporations, shall not be applicable.

9 (b) The provisions of Section 1212 of the Internal Revenue  
10 Code, relating to capital loss carrybacks and carryovers, *are*  
11 *modified* as amended by Section 101 of the Regulated Investment  
12 Company Modernization Act of 2010 (Public Law 111-325), shall  
13 apply, except as otherwise provided. *follows:*

14 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating  
15 to capital loss carrybacks, shall not apply.

16 (2) Section 1212(a)(4) of the Internal Revenue Code, relating  
17 to special rules on carrybacks, shall not apply.

18 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,  
19 relating to other taxpayers and carryback of losses from Section  
20 1256 contracts to offset prior gains from such contracts,  
21 respectively, shall not apply.

22 ~~(e) Section 1222(10) of the Internal Revenue Code, relating to~~  
23 ~~net capital loss, as amended by Section 101 of the Regulated~~  
24 ~~Investment Company Modernization Act of 2010 (Public Law~~  
25 ~~111-325), shall apply, except as otherwise provided.~~

26 (d) (1) Except as provided in paragraph (2), the amendments  
27 made to this section by the act adding this paragraph shall apply  
28 to net capital losses for taxable years beginning on or after  
29 December 23, 2010.

30 ~~(2) Section 1212(a)(3)(B) of the Internal Revenue Code, relating~~  
31 ~~to coordination with general rule, as added by Section 101 of the~~  
32 ~~Regulated Investment Company Modernization Act of 2010 (Public~~  
33 ~~Law 111-325), shall apply to taxable years beginning on or after~~  
34 ~~December 23, 2010.~~

35 *SEC. 35. (a) Except as otherwise provided, the provisions of*  
36 *this act shall apply to taxable years beginning on or after January*  
37 *1, 2015.*

38 (b) Sections 201 to 221, inclusive, of the Tax Technical  
39 Corrections Act of 2014 (Title II of Division A of Public Law  
40 113-295), enacted numerous technical corrections and

1 clarifications to provisions of the Internal Revenue Code, including  
2 technical corrections and clarifications relating to the American  
3 Taxpayer Relief Act of 2012 (Public Law 112-240), the Middle  
4 Class Tax Relief and Job Creation Act of 2012 (Public Law  
5 112-96), the FAA Modernization and Reform Act of 2012 (Title  
6 IX of Public Law 112-95), the Regulated Investment Company  
7 Modernization Act of 2010 (Public Law 111-325), the Tax Relief,  
8 Unemployment Insurance Reauthorization, and Job Creation Act  
9 of 2010 (Public Law 111-312), the Creating Small Business Jobs  
10 Act of 2010 (Title II of Public Law 111-240), the Hiring Incentives  
11 to Restore Employment Act (Public Law 111-147), the American  
12 Recovery and Reinvestment Tax Act of 2009 (Public Law 111-5),  
13 the Economic Stimulus Act of 2008 (Division A of Public Law  
14 110-343), the Energy Improvement and Extension Act of 2008  
15 (Division B of Public Law 110-343), the Tax Extenders and  
16 Alternative Minimum Tax Relief Act of 2008 (Division C of Public  
17 Law 110-343), the Housing Assistance Tax Act of 2008 (Division  
18 C of Public Law 110-289), the Heroes Earnings Assistance and  
19 Relief Tax Act of 2008 (Public Law 110-245), the Tax Technical  
20 Corrections Act of 2007 (Public Law 110-172), the Tax Relief and  
21 Health Care Act of 2006 (Public Law 109-432), the Safe,  
22 Accountable, Flexible, Efficient Transportation Equity Act of 2005:  
23 A Legacy for Users (Public Law 109-59), the Energy Tax Incentives  
24 Act of 2005 (Title XIII of Public Law 109-58), and the American  
25 Jobs Creation Act of 2004 (Public Law 108-357), some of which  
26 are incorporated by reference into Part 10 (commencing with  
27 Section 17001), Part 10.2 (commencing with Section 18401), and  
28 Part 11 (commencing with Section 23001) of Division 2 of the  
29 Revenue and Taxation Code. Unless otherwise provided, the  
30 technical corrections described in the preceding sentence, to the  
31 extent that they correct provisions that are incorporated by  
32 reference into the Revenue and Taxation Code, are declaratory of  
33 existing law and shall be applied in the same manner and for the  
34 same periods as specified for federal purposes, or if later, the  
35 specified date of incorporation.

36 SEC. 36. It is the intent of the Legislature to confirm the validity  
37 and ongoing effect of Senate Bill No. 401 of the 2009–10 Regular  
38 Session.

39 SEC. 37. This act provides for a tax levy within the meaning  
40 of Article IV of the Constitution and shall go into immediate effect.

1 SECTION 1. ~~Section 23037 of the Revenue and Taxation Code~~  
2 ~~is amended to read:~~  
3 ~~23037. “Taxpayer” means a person subject to the tax imposed~~  
4 ~~under Chapter 2 (commencing with Section 23101), Chapter 2.5~~  
5 ~~(commencing with Section 23400), or Chapter 3 (commencing~~  
6 ~~with Section 23501).~~

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Assembly  
California Legislature



ASSEMBLY COMMITTEE ON  
**REVENUE AND TAXATION**  
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DONALD WAGNER

April 2, 2015

Honorable Richard S. Gordon  
Chair, Assembly Rules Committee  
State Capitol, Room 3016  
Sacramento, CA 95816

Dear Chairman Gordon:

I respectfully request that an urgency clause be added to AB 154, relating to taxation: federal conformity.

This urgency is necessary in order to provide much needed tax relief to taxpayers in conformity with federal tax relief enacted in the last four years and to alleviate administrative burdens on state tax agencies.

Your favorable consideration of this request is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Y. Ting".

PHILIP Y. TING  
Assemblymember, 19th District

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 475**

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**Introduced by Assembly Member Bigelow**  
*(Principal coauthor: Senator Berryhill)*

February 23, 2015

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An act to add Section 12012.66 to the Government Code, relating to ~~gaming~~; tribal gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 475, as amended, Bigelow. Tribal-~~gaming~~; gaming: compact ratification.

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law *expressly* ratifies a number of tribal-state gaming ~~compacts~~ compacts, and amendments to tribal-state gaming compacts, between the State of California and specified Indian tribes.

This bill would state the intent of the Legislature to enact legislation related to tribal gaming in California.

*The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.*

*This bill would ratify the tribal-state gaming compact entered into between the State of California and the Jackson Rancheria Band of Miwuk Indians, executed on February 1, 2015. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for the purposes of CEQA.*

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

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

1 SECTION 1. Section 12012.66 is added to the Government  
2 Code, to read:

3 12012.66. (a) *The tribal-state gaming compact entered into*  
4 *in accordance with the federal Indian Gaming Regulatory Act of*  
5 *1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec.*  
6 *2701 et seq.) between the State of California and the Jackson*  
7 *Rancheria Band of Miwuk Indians, executed on February 1, 2015,*  
8 *is hereby ratified.*

9 (b) (1) *In deference to tribal sovereignty, none of the following*  
10 *shall be deemed a project for purposes of the California*  
11 *Environmental Quality Act (Division 13 (commencing with Section*  
12 *21000) of the Public Resources Code):*

13 (A) *The execution of an amendment to the tribal-state gaming*  
14 *compact ratified by this section.*

15 (B) *The execution of the tribal-state gaming compact ratified*  
16 *by this section.*

17 (C) *The execution of an intergovernmental agreement between*  
18 *a tribe and a county or city government negotiated pursuant to*  
19 *the express authority of, or as expressly referenced in, the*  
20 *tribal-state gaming compact ratified by this section.*

21 (D) *The execution of an intergovernmental agreement between*  
22 *a tribe and the Department of Transportation negotiated pursuant*  
23 *to the express authority of, or as expressly referenced in, the*  
24 *tribal-state gaming compact ratified by this section.*

25 (E) *The on-reservation impacts of compliance with the terms*  
26 *of the tribal-state gaming compact ratified by this section.*

27 (F) *The sale of compact assets, as defined in subdivision (a) of*  
28 *Section 63048.6, or the creation of the special purpose trust*  
29 *established pursuant to Section 63048.65.*

1     (2) *Except as expressly provided herein, this subdivision does*  
2 *not exempt a city, county, or city and county, or the Department*  
3 *of Transportation, from the requirements of the California*  
4 *Environmental Quality Act.*

5     ~~SECTION 1. It is the intent of the Legislature to enact~~  
6 ~~legislation related to tribal gaming in California.~~

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COMMITTEES  
VICE CHAIR: APPROPRIATIONS  
VICE CHAIR: WATER, PARKS AND WILDLIFE  
BUDGET  
GOVERNMENTAL ORGANIZATION

# Assembly California Legislature



**FRANK BIGELOW**  
ASSEMBLYMEMBER, FIFTH DISTRICT

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April 2, 2015

The Honorable Richard Gordon  
Chair, Assembly Rules Committee  
State Capitol, Room 3016  
Sacramento, California 95814

Dear Chairman Gordon:

I respectfully request permission to add an urgency clause to AB 475. The bill needs an urgency clause so that the terms of the compact for the Jackson Rancheria Band of Miwuk Indians can go immediately into effect after its passage. This bill would ratify the tribal-state gaming compact entered into between the State of California and the Jackson Rancheria Band of Miwuk Indians, executed on February 1, 2015.

Thank you for your prompt response to my request. Please contact Kirk Kimmelshue in my office at (916) 319-2005 should any questions arise.

Sincerely,

A handwritten signature in blue ink that reads "Frank Bigelow".

FRANK BIGELOW  
Assemblymember 5<sup>th</sup> District



AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 507**

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**Introduced by Assembly Member Olsen  
(Principal coauthor: Assembly Member Gray)**

February 23, 2015

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An act to ~~amend~~ *add* Section ~~106~~ of 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer ~~Affairs~~.  
*Affairs: BreEZe system: annual report.*

*Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Officer, based on information provided by the department in a specified manner.*

*This bill would, on and after January 31, 2016, require the department to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the department's's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.*

~~Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer~~

~~Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her for, among other things, unprofessional or dishonorable conduct.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

1 SECTION 1. Section 210.5 is added to the Business and  
2 Professions Code, immediately following Section 210, to read:

3 210.5. (a) On and after January 31, 2016, the department  
4 shall submit an annual report to the Legislature and the  
5 Department of Finance that includes all of the following:

6 (1) The department’s plan for implementing the BreEZe system  
7 at the regulatory entities in the department’s third phase of the  
8 implementation project, including, but not limited to, a timeline  
9 for implementation.

10 (2) The total estimated costs of implementation of the BreEZe  
11 system at the regulatory entities in the department’s third phase  
12 of the implementation project and the results of any cost-benefit  
13 analysis the department conducted for the third phase of the  
14 implementation project.

15 (3) A description of whether and to what extent the BreEZe  
16 system will achieve any operational efficiencies resulting from  
17 implementation by the boards and regulatory entities within the  
18 department’s jurisdiction.

19 (b) The report described in subdivision (a) shall be submitted  
20 in compliance with Section 9795 of the Government Code.

21 (c) For purposes of this section, “the regulatory entities in the  
22 department’s third phase of the implementation project” includes  
23 all of the following:

24 (1) Acupuncture Board.

25 (2) Board for Professional Engineers, Land Surveyors, and  
26 Geologists.

27 (3) Bureau of Automotive Repair.

28 (4) Bureau of Electronic and Appliance Repair, Home  
29 Furnishings, and Thermal Insulation.

30 (5) Bureau for Private Postsecondary Education.

31 (6) California Architects Board.

- 1 (7) *California Board of Accountancy.*
- 2 (8) *California State Board of Pharmacy.*
- 3 (9) *Cemetery and Funeral Bureau.*
- 4 (10) *Contractors' State License Board.*
- 5 (11) *Court Reporters Board of California.*
- 6 (12) *Landscape Architects Technical Committee.*
- 7 (13) *Professional Fiduciaries Bureau.*
- 8 (14) *Speech-Language Pathology and Audiology and Hearing*
- 9 *Aid Dispensers Board.*
- 10 (15) *State Athletic Commission.*
- 11 (16) *State Board of Chiropractic Examiners.*
- 12 (17) *State Board of Guide Dogs for the Blind.*
- 13 (18) *Structural Pest Control Board.*
- 14 (19) *Telephone Medical Advice Services Bureau.*

15 ~~SECTION 1. Section 106 of the Business and Professions Code~~  
16 ~~is amended to read:~~

17 ~~106. The Governor has power to remove from office at any~~  
18 ~~time, any member of any board appointed by him or her for~~  
19 ~~continued neglect of duties required by law, for incompetence, or~~  
20 ~~unprofessional or dishonorable conduct. This section shall not be~~  
21 ~~construed as a limitation or restriction on the power of the~~  
22 ~~Governor, conferred on him or her by any other law, to remove~~  
23 ~~any member of any board.~~

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# Assembly California Legislature

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**KRISTIN OLSEN**  
ASSEMBLY REPUBLICAN LEADER  
ASSEMBLYMEMBER, TWELFTH DISTRICT

April 7, 2015

Assemblymember Richard Gordon  
Rules Chairman  
State Capitol, Room 3016

Dear Chairman Gordon,

I respectfully request AB 507 to be added to the Rules Committee Agenda to ask for an urgency clause.

A recent report by the State Auditor on the Department of Consumer Affairs' (DCA) implementation of BreEZe recommended the Legislature require the Department of Consumer Affairs to submit an annual report to the Legislature beginning on October 1, 2015. Without an urgency clause, this deadline will not be possible.

Should you have any questions about the merit of this urgency request, please do not hesitate to contact my Communications Director, Allison Wescott at 916-319-2012.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink that reads "Kristin Olsen".

Kristin Olsen  
Assembly Republican Leader  
12<sup>th</sup> District

**ASSEMBLY BILL**

**No. 1147**

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**Introduced by Assembly Member Maienschein**

February 27, 2015

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An act to amend Sections 1760.2 and 1760.4 of, and to add Sections 1760.7, 1760.9, 1761.85, 1762, 1762.2, 1762.4, 1762.6, 1762.8, 1763, 1763.2, and 1763.4 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as introduced, Maienschein. Health facilities: pediatric day health and respite care facilities.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including, among others, pediatric day health and respite care facilities. Existing law defines “pediatric day health and respite care facility” as a facility that provides an organized program of therapeutic social and day health activities and services and limited 24-hour inpatient respite care to medically fragile children 21 years of age or younger, including terminally ill and technology dependent children.

This bill would authorize an individual who is 22 years of age or older to continue to receive care in a pediatric day health and respite care facility, if the facility receives approval from the department for a Transitional Health Care Needs Optional Service Unit. The bill would establish a licensing process for a pediatric day health and respite care facility to operate an optional service unit, and would impose certain requirements on those optional service units, including, among others, that the optional service unit provide care for clients who are 22 years of age or older in a distinct part of the pediatric day health and respite

care facility or optional service unit, separate from the area where care is provided to younger clients.

This bill would authorize a pediatric day health and respite care facility to implement policies and procedures that prohibit smoking by clients, parents, staff, visitors, or consultants within the facility or on the premises, if the prohibition is clearly stated in the admission agreement, and notices are posted at the facility.

This bill would establish procedures for the issuance of a provisional license to a pediatric day health and respite care facility. The bill would specify additional procedures relating to the licensure of a pediatric day health and respite care facility, and renewals of those licenses, including, among others, requiring the department to initiate an initial licensing inspection within 60 days of receipt of a pediatric day health and respite care facility's completed application and requiring periodic inspections by a duly authorized representative of the department and specified reports related to those inspections. The bill would authorize the department to make reasonable accommodation for exceptions to the licensing standards if the health, safety, and quality of patient care is not compromised. The bill would also specify the grounds upon which those licenses may be revoked, including, among others, willful omission or falsification of a material fact in the application for a license. The bill would require proceedings for the denial, suspension, or revocation of licenses, or denial or withdrawal of approval, to be conducted in accordance with specified provisions of law.

Existing law requires facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, to comply with specified provisions of the California Code of Regulations, and exempts those facilities from certain requirements of that code relating to required services for skilled nursing facilities.

This bill would provide additional exemptions from that code for a pediatric day health and respite care facility.

Existing law specifies the services that a pediatric day health and respite care facility is required to provide, including, among others, pharmacy services.

This bill would require that pharmacy services by a pediatric day health and respite care facility satisfy certain requirements, including, among others, that medications be administered only upon written and signed orders of the child's attending physician.

This bill would require a pediatric day health and respite care facility to have a patient care committee to address quality of care provided in the facility, including, but not limited to, patient care policies, pharmacy services, and infection control. The bill would specify the composition of the committee, impose specified meeting requirements, and outline the committee’s responsibilities.

Existing law requires pediatric day health and respite care facilities to meet the same fire safety standards adopted by the State Fire Marshal and the same seismic safety standards that apply to community care facilities. Existing law provides that a pediatric day health and respite care is not subject to architectural plan review or field inspection by the Office of Statewide Health Planning and Development, and requires, as part of the application for licensure, an applicant to submit evidence of compliance with local building code requirements and that the physical environment is adequate to provide the level of care and service required by the clients of the facility as determined by the department.

This bill would provide that those provisions do not prohibit the use of alternate space utilization, new concepts of design, treatment techniques, equipment and alternate finish materials, or other flexibility, if written approval is granted by the local building authority.

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

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

- 1 SECTION 1. Section 1760.2 of the Health and Safety Code is
- 2 amended to read:
- 3 1760.2. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) (1) “Pediatric day health and respite care facility” means
- 6 a facility ~~which~~ *that* provides an organized program of therapeutic
- 7 social and day health activities and services and limited 24-hour
- 8 inpatient respite care to medically fragile children 21 years of age
- 9 or younger, including terminally ill and technology dependent
- 10 children.
- 11 (2) *An individual who is 22 years of age or older may continue*
- 12 *to receive care in a pediatric day health and respite care facility*
- 13 *if the facility receives approval from the state department for a*
- 14 *Transitional Health Care Needs Optional Service Unit pursuant*
- 15 *to Section 1763.4.*

1 (b) “Medically fragile” means having an acute or chronic health  
2 problem ~~which~~ *that* requires therapeutic intervention and skilled  
3 nursing care during all or part of the day. Medically fragile  
4 problems include, but are not limited to, HIV disease, severe lung  
5 disease requiring oxygen, severe lung disease requiring ventilator  
6 or tracheostomy care, complicated spina bifida, heart disease,  
7 malignancy, asthmatic exacerbations, cystic fibrosis exacerbations,  
8 neuromuscular disease, encephalopathies, and seizure disorders.

9 (c) “Technology-dependent child” means a person from birth  
10 through 21 years of age who has a chronic disability, requires the  
11 routine use of a specific medical device to compensate for the loss  
12 of use of a life sustaining body function, and requires daily,  
13 ongoing care or monitoring by trained personnel.

14 (d) “Respite care” means day and 24-hour relief for the parent  
15 or guardian and care for the child. ~~Twenty-four hour~~ *24-hour*  
16 inpatient respite care includes, but is not limited to, 24-hour nursing  
17 care, meals, socialization, and developmentally appropriate  
18 activities. As used in this chapter, “24-hour inpatient respite care”  
19 is limited to no more than 30 intermittent or continuous *whole*  
20 *calendar* days per patient per calendar year.

21 (e) “Comprehensive case management” means locating,  
22 coordinating, and monitoring services for the eligible client  
23 population and includes all of the following:

24 (1) Screening of client referrals to identify those persons who  
25 can benefit from the available services.

26 (2) Comprehensive client assessment to determine the services  
27 needed.

28 (3) Coordinating the development of an interdisciplinary  
29 comprehensive care plan.

30 (4) Determining individual case cost effectiveness and available  
31 sources of funding.

32 (5) Identifying and maximizing informal sources of care.

33 (6) Ongoing monitoring of service delivery to determine the  
34 optimum type, amount, and duration of services provided.

35 (f) “License” means a basic permit to operate a pediatric day  
36 health and respite care facility. With respect to a health facility  
37 licensed pursuant to Chapter 2 (commencing with Section 1250),  
38 “license” means a special permit authorizing the health facility to  
39 provide pediatric day health and respite care services as a separate  
40 program in a distinct part of the facility.



1 (g) “State department” means the ~~State Department of Health~~  
2 ~~Services~~. *State Department of Public Health.*

3 SEC. 2. Section 1760.4 of the Health and Safety Code is  
4 amended to read:

5 1760.4. (a) The state department shall develop and adopt  
6 regulations for the licensure of, and shall license, pediatric day  
7 health and respite care facilities. The regulations shall include  
8 minimum standards for the following:

9 (1) Adequacy, safety, and sanitation of the physical plant and  
10 equipment.

11 (2) Staffing with duly qualified personnel.

12 (3) Training of the staff.

13 (4) Providing the services offered.

14 These regulations shall be filed with the Secretary of State no  
15 later than July 1, 1993.

16 (b) The state department shall establish within the state  
17 department an advisory committee of experts to assist in the  
18 development of the regulations required pursuant to this section.  
19 A representative of the state department shall act as chairperson  
20 of the committee. The members of the committee shall serve  
21 without compensation, but shall be reimbursed by the state  
22 department for all necessary expenses incurred in the actual  
23 performance of their duties. To the extent sufficient funds have  
24 been appropriated in the Budget Act, the state department may  
25 provide staff support to the committee as the state department  
26 deems is necessary for the conduct of the committee’s business.  
27 The committee shall meet at the state director’s pleasure until the  
28 time that the proposed regulations are presented for adoption at  
29 the public hearing.

30 (c) Pending adoption of the regulations pursuant to subdivision  
31 (b), an entity may be licensed as a pediatric day health and respite  
32 care facility if it meets interim regulations administered by the  
33 state department for congregate living health facilities pursuant to  
34 Section 1267.13.

35 (d) (1) *In addition to the exceptions from regulations described*  
36 *in subdivision (n) of Section 1267.13, a pediatric day health and*  
37 *respite care facility shall not be required to conform to the*  
38 *following regulations contained in Chapter 3 of Division 5 of Title*  
39 *22 of the California Code of Regulations: 72329.1, 72353, 72359,*

1 72363, 72365, 72371, subdivisions (b) and (c) of Section 72375,  
2 subdivision (b) of Section 72377, 72516, 72525, and 72531.

3 (2) A pediatric day health and respite care facility shall not be  
4 required to meet the requirements of Section 72367 of Article 3 of  
5 Chapter 3 of Division 5 of Title 22 of the California Code of  
6 Regulations, except that medications brought by or with the patient  
7 on admission to the facility shall not be used unless, after admission  
8 by the facility, the contents of the containers have been examined  
9 and positively identified.

10 (e) A pediatric day health and respite care facility shall have a  
11 patient care committee to address quality of care provided in the  
12 facility, including, but not limited to, patient care policies,  
13 pharmacy services, and infection control.

14 (1) The pediatric day health and respite care facility shall  
15 maintain minutes of every committee meeting and indicate the  
16 names of members present, the date, the length of the meeting, the  
17 subject matter discussed, and any action taken.

18 (2) The patient care committee shall include the medical  
19 director, dietician, pharmacist, nursing staff, nurse supervisor,  
20 center administrator or director, and other staff as may be required  
21 by facility policies and procedures.

22 (3) The patient care committee shall meet at least twice per  
23 year, or more often if a need or problem is identified by the  
24 committee.

25 (4) The patient care committee shall be responsible for all of  
26 the following:

27 (A) Reviewing and approving all policies relating to patient  
28 care. Based on reports received from the pediatric day health and  
29 respite care facility’s administrator, the committee shall review  
30 the effectiveness of policy implementation and shall make  
31 recommendations to the administrator of the facility for the  
32 improvement of patient care. The committee shall review patient  
33 care policies annually and revise the policies as necessary. The  
34 committee’s minutes shall list the policies the committee reviewed.

35 (B) Infection control in the facility, which shall include, but not  
36 be limited to, establishing, reviewing, monitoring, and approving  
37 policies and procedures for investigating, controlling, and  
38 preventing infections in the facility, and maintaining, reviewing,  
39 and reporting statistics of the number, types, sources, and locations

1 of infections within the pediatric day health and respite care  
2 facility.

3 (C) Establishing, reviewing, and monitoring the storage and  
4 administration of drugs and biologicals, reviewing and taking  
5 appropriate action based on any findings from a pharmacist hired  
6 to consult with the committee and internal quality assurance  
7 reviews, and recommending improvements of services to the  
8 administrator of the facility.

9 (f) (1) A pediatric day health and respite care facility shall  
10 comply with licensing requirements. The state department may,  
11 upon written request of an applicant or licensee, approve the use  
12 of alternate concepts, methods, procedures, techniques, equipment,  
13 personnel qualifications, or conducting pilot projects, provided  
14 those alternatives are carried out with safe and adequate care for  
15 the patients and with the prior written approval of the state  
16 department. The state department's approval shall provide for the  
17 terms and conditions under which the alternatives are granted.  
18 An applicant's or licensee's written request shall be accompanied  
19 by substantiating evidence supporting the request pursuant to this  
20 paragraph.

21 (2) The state department's review of written requests submitted  
22 under this subdivision shall consider the unique nature of services  
23 provided to individuals served by the pediatric day health and  
24 respite care facility when compared to the requirements for  
25 congregate living health facilities for individuals requiring  
26 inpatient care.

27 (3) If the state department grants an approval under this  
28 subdivision, a pediatric day health and respite care facility shall  
29 immediately post that approval, or a true copy of that approval,  
30 adjacent to the facility's license.

31 SEC. 3. Section 1760.7 is added to the Health and Safety Code,  
32 to read:

33 1760.7. A pediatric day health and respite care facility shall  
34 provide pharmacy services that satisfy all of the following:

35 (a) (1) Medications shall be supplied to the licensed nursing  
36 personnel of the pediatric day health and respite care facility by  
37 the child's parent, foster parent, or legal guardian in the original  
38 dispensing container that specifies administration instructions.

39 (2) Medications shall be administered only upon written and  
40 signed orders of the child's attending physician.

1 (3) The pediatric day health and respite care facility shall not  
2 order medications from a pharmacy or take delivery of medications  
3 from a pharmacy.

4 (4) The pediatric day health and respite care facility shall not  
5 accept a child into the facility if the child’s medications have  
6 expired or are scheduled to expire during the child’s stay at the  
7 facility.

8 (b) (1) Physician orders shall be current and maintained in the  
9 child’s medical record at the pediatric day health and respite care  
10 facility. Verbal orders from the attending physician for services  
11 to be rendered at the facility may be received and recorded by  
12 licensed nursing personnel in the child’s medical record at the  
13 facility and shall be signed by the attending physician within 30  
14 working days.

15 (2) Medications shall not be administered to a child unless the  
16 facility first verifies that the medication was ordered by a physician.  
17 Verification may be obtained by contacting the physician’s office  
18 or by being provided with a copy of the physician’s order for the  
19 medication.

20 (c) The pediatric day health and respite care facility shall  
21 maintain records of medication administered for at least one year,  
22 unless a longer period is required by state or federal law. The  
23 records of medication administered shall be a part of the child’s  
24 plan of care.

25 (d) The pediatric day health and respite care facility may treat  
26 changes in the child’s condition, such as new onset pain, nausea,  
27 diarrhea, infections, or other similar changes, in accordance with  
28 the child’s plan of care if the child has been prescribed medications  
29 to treat these anticipated symptoms, and does not present a risk to  
30 the health and safety of themselves, other children, staff, or other  
31 individuals with whom the child may come into contact. Children  
32 who present with symptoms that are not anticipated or planned for  
33 in the plan of care shall not remain in the facility.

34 (e) Other requirements as specified in subdivision (a) of Section  
35 72375, and subdivision (a) of Section 72377, of Article 3 of  
36 Chapter 3 of Division 5 of Title 22 of the California Code of  
37 Regulations.

38 SEC. 4. Section 1760.9 is added to the Health and Safety Code,  
39 to read:

1 1760.9. A pediatric day health and respite care facility may  
2 implement policies and procedures that prohibit smoking by clients,  
3 parents, staff, visitors, or consultants within the facility or on the  
4 premises, if the prohibition is clearly stated in the admission  
5 agreement, and notices are posted at the facility.

6 SEC. 5. Section 1761.85 is added to the Health and Safety  
7 Code, to read:

8 1761.85. Sections 1761.2, 1761.4, and 1761.8 do not prohibit  
9 the use of alternate space utilization, new concepts of design,  
10 treatment techniques, equipment and alternate finish materials, or  
11 other flexibility, if written approval is granted by the local building  
12 authority.

13 SEC. 6. Section 1762 is added to the Health and Safety Code,  
14 to read:

15 1762. (a) In order to obtain a license under the provisions of  
16 this chapter to establish, conduct, or maintain a pediatric day health  
17 and respite care facility, a person, entity, political subdivision of  
18 the state, or governmental agency shall file with the state  
19 department a verified application on a form prescribed, prepared,  
20 and furnished by the state department, containing information as  
21 may be required by the state department for the proper  
22 administration and enforcement of this chapter.

23 (b) The state department shall initiate an initial licensing  
24 inspection within 60 days of receipt of a completed application.

25 SEC. 7. Section 1762.2 is added to the Health and Safety Code,  
26 to read:

27 1762.2. (a) If a pediatric day health and respite care facility  
28 or an applicant for a license has not been previously licensed, the  
29 state department shall issue a provisional license to the facility  
30 only as provided in this section.

31 (b) A provisional license to operate a pediatric day health and  
32 respite care facility shall terminate six months from the date of  
33 issuance, or the date that the state department is able to conduct a  
34 full and complete inspection, whichever is later.

35 (c) Within 30 days prior to the termination of a provisional  
36 license, the state department shall give the facility a full and  
37 complete inspection, and, if the facility meets all applicable  
38 requirements for licensure, a regular license shall be issued. If the  
39 facility does not meet the requirements for licensure but has made  
40 substantial progress towards meeting the requirements, as

1 determined by the state department, the initial provisional license  
2 shall be renewed for six months.

3 (d) If the state department determines that there has not been  
4 substantial progress towards meeting licensure requirements at the  
5 time of the first full inspection provided by this section, or, if the  
6 state department determines upon its inspection made within 30  
7 days of the termination of a renewed provisional license that there  
8 is lack of full compliance with the requirements, the state  
9 department shall not issue a further license.

10 (e) If an applicant for a provisional license to operate a pediatric  
11 day health and respite care facility has been denied provisional  
12 licensing by the state department, the applicant may contest the  
13 denial by filing a request for a hearing pursuant to Section 131071.

14 (f) The state department shall not apply less stringent criteria  
15 when granting a provisional license pursuant to this section than  
16 it applies when granting a permanent license.

17 SEC. 8. Section 1762.4 is added to the Health and Safety Code,  
18 to read:

19 1762.4. (a) A license issued under this chapter shall expire 12  
20 months from the date of its issuance. The licensee shall pay a fee,  
21 not to exceed the reasonable regulatory cost to the state department,  
22 to the state department annually, not less than 30 days prior to  
23 expiration date, subject to the state department mailing the notice  
24 of renewal in accordance with subdivision (b).

25 (b) (1) At least 45 days prior to the expiration of a license issued  
26 pursuant to this chapter, the state department shall mail a notice  
27 for renewal to the licensee.

28 (2) A license renewal shall be submitted with the necessary fee  
29 in accordance with subdivision (a). A license shall be deemed  
30 renewed upon payment of the necessary fee, commencing from  
31 the license’s expiration date. If the requirements of this section  
32 are satisfied, the state department shall issue a license to the facility  
33 by the expiration date of the license to ensure the provider remains  
34 in good standing. The facility’s license shall be mailed within 15  
35 calendar days after the date the state department receives the  
36 renewal fee.

37 SEC. 9. Section 1762.6 is added to the Health and Safety Code,  
38 to read:

39 1762.6. Every pediatric day health and respite care facility for  
40 which a license has been issued shall be periodically inspected by

1 a duly authorized representative of the state department. Reports  
2 of each inspection shall be prepared by the representative upon  
3 forms prepared and furnished by the state department and filed  
4 with the state department. The inspection shall be for the purpose  
5 of ensuring that the pediatric day health and respite care facility  
6 is complying with the provisions of this chapter and the rules and  
7 regulations of the state department.

8 SEC. 10. Section 1762.8 is added to the Health and Safety  
9 Code, to read:

10 1762.8. The state department may deny an application for, or  
11 suspend or revoke a license issued under the provisions of this  
12 chapter in the manner provided in Section 1763 upon any of the  
13 following grounds:

14 (a) A serious violation by the licensee of any of the provisions  
15 of this chapter, of any other law, or of the rules and regulations  
16 promulgated under this chapter that jeopardizes the health and  
17 safety of clients.

18 (b) Aiding, abetting, or permitting the commission of any illegal  
19 act.

20 (c) Willful omission or falsification of a material fact in the  
21 application for a license.

22 SEC. 11. Section 1763 is added to the Health and Safety Code,  
23 to read:

24 1763. Proceedings for the denial, suspension, or revocation of  
25 licenses, or denial or withdrawal of approval under this chapter  
26 shall be conducted in accordance with Section 131071. The  
27 suspension, expiration, or forfeiture by operation of law of a license  
28 issued by the state department, its suspension, forfeiture, or  
29 cancellation by order of the state department or by order of a court,  
30 or its surrender without the written consent of the state department,  
31 shall not deprive the state department of its authority to institute  
32 or continue a disciplinary proceeding against the licensee upon  
33 any ground provided by law or to enter an order suspending or  
34 revoking the license or otherwise taking disciplinary action against  
35 the licensee on any of those grounds.

36 SEC. 12. Section 1763.2 is added to the Health and Safety  
37 Code, to read:

38 1763.2. The state department has authority to make reasonable  
39 accommodation for exceptions to the standards in this chapter if  
40 the health, safety, and quality of patient care is not compromised.

1 Prior written approval communicating the terms and conditions  
2 under which the exception is granted shall be required. An  
3 applicant shall request an exception in writing accompanied by  
4 detailed supporting documentation.

5 SEC. 13. Section 1763.4 is added to the Health and Safety  
6 Code, to read:

7 1763.4. (a) For purposes of this chapter, “Transitional Health  
8 Care Needs Optional Service Unit” or “optional service unit”  
9 means a functional unit of a pediatric day health and respite care  
10 facility that is organized, staffed, and equipped to provide care to  
11 individuals who are 22 years of age or older.

12 (1) The age of older clients receiving care in the optional service  
13 unit shall be in age-appropriate groupings as provided for in the  
14 pediatric day health and respite care facility’s policies and  
15 procedures. Older adolescents under the age of 22 are not precluded  
16 from being cared for in the same optional service unit as the  
17 younger adults. A pediatric day health and respite care facility is  
18 not required to operate an optional service unit.

19 (2) In order to continue receiving care in the pediatric day health  
20 and respite care facility, participants who are 22 years of age or  
21 older shall have a developmental age of 18 years of age or younger,  
22 as evidenced by the client’s Individual Education Plan (IEP),  
23 Regional Center Assessment, physician’s assessment, or other  
24 assessment using a standardized assessment tool that is  
25 nationally-recognized in the field.

26 (b) An optional service unit shall be approved by the state  
27 department. A pediatric day health and respite care facility desiring  
28 approval for an optional service unit shall file an application on  
29 forms furnished by the state department. The state department shall  
30 list on the facility license each optional service for which approval  
31 is granted.

32 (c) Care for clients who are 22 years of age or older shall be  
33 provided in a distinct part of the pediatric day health and respite  
34 care facility or optional service unit, separate from the area where  
35 care is provided to younger clients. The facility shall establish and  
36 implement policies and procedures for determining the age ranges  
37 of clients who are cared for in the optional service unit. These  
38 policies and procedures shall include, but not be limited to,  
39 consideration of the client’s chronological age, developmental age,  
40 and size.



1 (d) The pediatric day health and respite care facility shall ensure  
2 that its staffing and equipment are sufficient to provide services  
3 to clients who are 22 years of age or older.

4 (e) A Transitional Health Care Needs Optional Service Unit  
5 shall have written policies and procedures for the management of  
6 the service. The policies and procedures shall be established and  
7 implemented by the patient care policy committee described in  
8 Section 1760.4

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# Assembly California Legislature



**BRIAN MAIENSCHIEIN**  
ASSEMBLYMEMBER, SEVENTY-SEVENTH DISTRICT

COMMITTEES  
CHAIR: LOCAL GOVERNMENT  
VICE CHAIR: HEALTH  
HUMAN SERVICES  
JUDICIARY

SELECT COMMITTEES  
BIOTECHNOLOGY  
COMMUNITY AND LAW ENFORCEMENT  
RELATIONS AND RESPONSIBILITIES  
CYBERSECURITY  
HIGHER EDUCATION IN SAN DIEGO  
COUNTY  
HOMELESSNESS  
LOCAL EMERGENCY PREPAREDNESS  
YOUTH AND CALIFORNIA'S FUTURE

April 8, 2015

The Honorable Richard Gordon  
Assembly Rules Committee  
State Capitol, Room 3016  
Sacramento, CA 95814

Dear Chairman Gordon,

I am writing to request an urgency clause be approved for my AB 1147 which is set to be heard on April 21 in the Assembly Health Committee.

An urgency clause for AB 1147 is necessary for the health and safety of a dozen or more medically fragile adults who will be aged out of Pediatric Day Health and Respite Facilities (PDHRCF) prior to the end of the year. AB 1147 will allow these individuals to remain at the PDHRCF, in a separate "transitional care unit" after they turn 22 years of age or until they reach a mental capacity of 18 years old. About a dozen of these individuals will turn 22 years old prior to the end of the year. For these reasons, an urgency clause is needed to keep this limited number of individuals in the care they are currently receiving.

For these reasons, I would appreciate your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Brian Maienschein".

BRIAN MAIENSCHIEIN  
Assemblymember, 77<sup>th</sup> District

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1259**

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**Introduced by Assembly Member Levine**

February 27, 2015

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An act to ~~add Chapter 4.5 (commencing with Section 8305) to Division 1 of Title 2 of the Government Code, amend Section 1745.2 of the Fish and Game Code, relating to pesticides: bees.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1259, as amended, Levine. ~~Pesticides: neonicotinoids: planting on state-owned or state-managed lands: prohibition. Bees: apiculture: state-owned lands.~~

*Existing law requires the Department of Fish and Wildlife to consider permitting apiculture on department-managed wildlife areas. Existing law requires the department, when developing or amending its land management plans, to make certain determinations relating to the use of the department-managed wildlife areas for apiculture.*

*This bill would instead require the department to consider authorizing apiculture on department-managed wildlife areas.*

*The bill would authorize the department to authorize the temporary placement of bee hives on department-managed wildlife areas through simple agreements specifying appropriate conditions. The bill would provide that these agreements are not contracts or leases for purposes of competitive bidding provisions and other provisions relating to public contracts in the Public Contract Code and the Government Code.*

*The bill would authorize the department to continue any authorization for apiculture on department-managed lands that it granted before January 1, 2015, without taking further action.*

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~~Existing law generally regulates pesticide use, and requires the Director of Pesticide Regulation to endeavor to eliminate from use any pesticide that endangers the agricultural or nonagricultural environment. Existing law requires pesticides to be registered by the Department of Pesticide Regulation. Existing law requires that a pesticide be thoroughly evaluated prior to registration, provides for the continued evaluation of registered pesticides, and requires the department, by July 1, 2018, to issue a determination with respect to its reevaluation of neonicotinoids. Existing law requires the department, within 2 years after making this determination, to adopt any control measures necessary to protect pollinator health.~~

~~This bill would prohibit plants or seeds that have been treated with a neonicotinoid pesticide from being planted on state-owned or state-managed lands, as described. This bill would also prohibit plants on state-owned or state-managed lands from being treated with a neonicotinoid pesticide.~~

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

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

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Bees and other pollinators are critical to agricultural
- 3 production and native ecosystems. Bees pollinate billions of dollars
- 4 of agricultural crops in the United States, including many of
- 5 California’s most important agricultural crops.
- 6 (b) Bees are at significant risk of harm due to a condition known
- 7 as Colony Collapse Disorder (CCD). In the United States alone,
- 8 more than 25 percent of the managed bee population has
- 9 disappeared since 1990 and the number of hives is at its lowest
- 10 number in 50 years. CCD and the loss of bees is a significant threat
- 11 to our state and national food supply and economic security.
- 12 ~~(c) While there is no single cause of CCD, a substantial and~~
- 13 ~~growing body of evidence points to neonicotinoid pesticides as a~~
- 14 ~~likely factor in bee colony collapse. Neonicotinoid pesticides are~~
- 15 ~~absorbed into plant tissue, do not discriminate between target and~~
- 16 ~~nontarget insect species, and are harmful to bees, butterflies, and~~
- 17 ~~other beneficial insects.~~

1 ~~(d) The state has recognized the importance of protecting bees~~  
2 ~~by encouraging placement of bee hives on state lands such as~~  
3 ~~wildlife areas managed by the Department of Fish and Wildlife.~~

4 ~~(e) Monarch butterflies, another important native pollinator, are~~  
5 ~~also severely threatened by loss of native milkweed upon which~~  
6 ~~they depend, loss of wintering habitat in California, pesticides,~~  
7 ~~and other factors. Monarch populations are in rapid decline.~~  
8 ~~According to the annual census taken at the monarch's wintering~~  
9 ~~grounds in Mexico in 2013, the monarch population dropped by~~  
10 ~~59 percent compared to the prior year's census, bringing the~~  
11 ~~monarch's numbers to the smallest registered population in almost~~  
12 ~~two decades.~~

13 ~~(f) Vegetation maintained on lands managed by the state, such~~  
14 ~~as along roadways and utility rights-of-way, could help provide~~  
15 ~~beneficial habitat for bees, monarch butterflies, and other~~  
16 ~~pollinators if properly managed.~~

17 ~~(g) The state should exercise caution when exposing bees and~~  
18 ~~other pollinators to plants that may harm them, especially on state~~  
19 ~~lands that may be utilized by bees.~~

20 *(c) A viable and productive honeybee industry is dependent on*  
21 *access to private and public lands to secure nectar and pollen*  
22 *resources for nutritional foraging opportunities.*

23 *(d) There is a need for a streamlined and efficient method to*  
24 *provide access to public lands for California beekeepers to ensure*  
25 *that they have adequate foraging grounds for their bees.*

26 *(e) The Legislature's intended purpose in enacting Section*  
27 *1745.2 of the Fish and Game Code is to increase apiculture bee*  
28 *foraging opportunities on state lands managed by the Department*  
29 *of Fish and Wildlife, and not to affect existing apiary sites on*  
30 *department-managed lands previously approved for apiculture*  
31 *use.*

32 *(f) Due to the unique regional and seasonal nature of apiculture,*  
33 *the public interest will be best served by authorizing such uses on*  
34 *department-managed lands without competitive bidding.*

35 *SEC. 2. Section 1745.2 of the Fish and Game Code is amended*  
36 *to read:*

37 1745.2. (a) The department shall do both of the following:

38 (1) Consider—~~permitting~~ *authorizing* apiculture on  
39 department-managed wildlife areas, where deemed appropriate by  
40 the department.

1 (2) Determine, when developing or amending its land  
2 management plans, the following:

3 (A) If the department-managed wildlife areas, or any portion  
4 of the those areas, are suitable for apiculture and whether apiculture  
5 is consistent with the management goals and objectives for those  
6 areas on a temporary, seasonal, or long-term basis.

7 (B) If the administration of apiculture on department-managed  
8 wildlife areas, where deemed appropriate by the department, is  
9 meeting the management goals and objectives for those areas.

10 (C) The appropriate ~~use or permit~~ fee to be assessed for  
11 conducting apiculture on department-managed wildlife areas.

12 (b) The department, in implementing this section, may consult  
13 with apiculture experts, including, but not limited to, the  
14 Department of Food and Agriculture, the University of California,  
15 other academic or professional experts, and interested stakeholders,  
16 ~~for permitting when considering authorizing~~ apiculture on  
17 department-managed wildlife areas consistent with the respective  
18 management goals and objectives for those areas.

19 (c) Moneys collected for conducting apiculture on  
20 department-managed wildlife areas pursuant to subparagraph (C)  
21 of paragraph (2) of subdivision (a) shall be deposited by the  
22 department into the Wildlife Restoration Fund and, upon  
23 appropriation by the Legislature, be used to support the  
24 management, maintenance, restoration, and operation of  
25 department-managed wildlife areas.

26 (d) *The department may authorize the temporary placement of*  
27 *bee hives on department-managed wildlife areas through simple*  
28 *agreements specifying appropriate conditions. These agreements*  
29 *are not contracts or leases for purposes of competitive bidding*  
30 *provisions and other provisions relating to public contracts in the*  
31 *Public Contract Code and Government Code.*

32 (e) *The department may continue any authorization for*  
33 *apiculture on department-managed areas that it granted before*  
34 *January 1, 2015 without taking further action.*

35 ~~SEC. 2. Chapter 4.5 (commencing with Section 8305) is added~~  
36 ~~to Division 1 of Title 2 of the Government Code, to read:~~

1                   ~~CHAPTER 4.5. PLANTING ON STATE-OWNED OR~~  
2                   ~~STATE-MANAGED LANDS~~

3  
4       8305. ~~For the purposes of this chapter:~~

5       (a) ~~“State-owned or state-managed lands” include, but are not~~  
6 ~~limited to, roadside lands owned and maintained by the Department~~  
7 ~~of Transportation, wildlife areas managed by the Department of~~  
8 ~~Fish and Wildlife, parklands managed by the Department of Parks~~  
9 ~~and Recreation, and wildlife habitat lands owned or managed by~~  
10 ~~a state conservancy.~~

11       (b) ~~“Treated” includes foliar and granular treatments, in addition~~  
12 ~~to seed coatings.~~

13       8306. ~~(a) Plants or seeds that have been treated with a~~  
14 ~~neonicotinoid pesticide shall not be planted on state-owned or~~  
15 ~~state-managed lands.~~

16       (b) ~~Plants on state-owned or state-managed lands shall not be~~  
17 ~~treated with a neonicotinoid pesticide.~~

O

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March 26, 2015

Assemblymember Rich Gordon, Chair  
Assembly Rules Committee  
State Capitol  
Sacramento, CA 95814

APR 3 '15 PM 3:11

RE: Request to add urgency clause to AB 1259 (Levine)

Dear Chair Gordon:

I am writing to request permission of the Rules Committee to add an urgency clause to AB 1259, as amended on March 26, 2015. The reason for the urgency is the need to clarify that the Legislature's intent in enacting AB 2185(Eggman) of 2014 was not to affect existing apiary sites on department-managed lands previously approved for apiculture use. This clarification is necessary to ensure that bee keepers who relied on the prior consent of the Department of Fish and Wildlife to place bee hives on state lands during certain seasons of the year may continue to do so. As stated in the attached urgency clause language, in order for beekeepers who relied on and are dependent on prior approvals from the Department of Fish and Wildlife to place their bee hives on department-managed lands for seasonal foraging purposes, it is necessary for this act to take effect immediately.

Thank you for your consideration of this request.

Sincerely,

  
Assembly Member Marc Levine

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