Assembly Bill No. 91

CHAPTER 39

An act to amend Sections 17052, 17140, 17140.3, 17140.4, 17276, 17276.21, 17276.22, 17560.5, 17564, 19131.5, 23711, 23711.4, 24343, 24416, 24416.21, 24416.22, 24422.3, 24652, 24654, 24673.2, and 24701 of, to add Sections 17052.1, 17144.8, 17201.2, 17271, 17563.51, 17859, 24343.1, 24451.1, and 24652.6 to, and to repeal and add Sections 18031.5 and 24941.5 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 2019. Filed with Secretary of State July 1, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 91, Burke. Income taxation: Loophole Closure and Small Business and Working Families Tax Relief Act of 2019.

(1) The Personal Income Tax Law, beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income tax credit against personal income tax, and a payment from the Tax Relief and Refund Account for an allowable credit in excess of tax liability, to an eligible individual that is equal to that portion of the earned income tax credit allowed by federal law as determined by the earned income tax credit adjustment factor, as specified. The law provides that the amount of the credit is calculated as a percentage of the eligible individual's earned income and is phased out above a specified amount as income increases. The law deems, for each taxable year beginning on or after January 1, 2018, and before January 1, 2019, the California Consumer Price Index as the greater of 3.1% or the percentage change in the California Consumer Price Index for the recomputation of specified earned income amounts, phaseout amounts, and the amount of disqualified income that would disallow this credit.

This bill, for taxable years beginning on or after January 1, 2019, and before January 1, 2020, would deem the California Consumer Price Index as the greater of 3.5% or the percentage change in the California Consumer Price Index for the recomputation of those specified amounts. The bill, for taxable years on and after January 1, 2019, would revise the calculation factors to increase the credit amount for specified taxpayers. The bill, for taxable years beginning on or after January 1, 2020, and until and including the taxable year in which the minimum wage is set at $15 per hour, would require specified, revised calculation factors to be recomputed annually in the same manner as the recomputation of income tax brackets for eligible individuals, but would require the Franchise Tax Board to recalculate the

revised phaseout percentage in a manner that any eligible individual with an earned income of $30,000 per year would get credit equal to $0.

This bill would allow a refundable young child tax credit against the taxes imposed under the Personal Income Tax Law, for each taxable year beginning on or after January 1, 2019, in an amount equal to $1,176 multiplied by the earned income tax credit adjustment factor, not to exceed $1,000 per each qualified taxpayer per taxable year. The bill would require amounts of this credit in excess of the qualified taxpayer's tax liability to be paid to the qualified taxpayer from the Tax Relief and Refund Account.

Existing law establishes the continuously appropriated Tax Relief and Refund Account and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including any amount to be paid as an earned income tax credit in excess of any tax liabilities.

By increasing the amount of the California Earned Income Tax Credit and allowing a refundable young child tax credit to be paid with funds from the Tax Relief and Refund Account, and thus, authorizing new payments from that account for additional amounts in excess of personal income tax liabilities, this bill would make an appropriation.

(2) Existing federal law, the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), for taxable years beginning on or after January 1, 2014, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a qualified ABLE program established and maintained by a state, as specified. Existing federal law, the Tax Cuts and Jobs Act, increases the amount of contributions allowed to an ABLE account, adds special rules for the increased contribution limit, and exempts from taxation distributions from a qualified tuition program, as defined, rolled into an ABLE account for taxable years beginning on or after December 31, 2017, and before January 1, 2026. Existing federal law, the Consolidated Appropriations Act, 2016 expanded the definitions of "qualified higher educational expenses" and "qualified ABLE program."

Existing law, the Personal Income Tax Law and the Corporation Tax Law, for taxable years beginning on or after January 1, 2016, conforms to the exclusions from gross income provided under federal income tax law provisions relating to the ABLE Act, as those exclusions read prior to the federal Tax Cuts and Jobs Act and the Consolidated Appropriations Act, 2016. Existing law creates the California ABLE Act Board and requires the board to provide an annual listing of distributions to individuals that have an interest in an ABLE account to the Franchise Tax Board, as provided.

This bill would conform state tax law to those changes relating to qualified ABLE accounts made by the Tax Cuts and Jobs Act and the Consolidated Appropriations Act, 2016. The bill would make a legislative finding and declaration that providing ABLE account beneficiaries the ability to contribute their own earnings to the ABLE account up to the federal poverty

level and allowing Section 529 plan accounts to roll over to ABLE accounts eliminates differences in the qualification criteria for ABLE accounts under federal tax law and California tax law, and thus serves a public purpose and does not constitute a prohibited gift of public funds.

(3) The Personal Income Tax Law provides an exclusion from gross income for the amount of student loan indebtedness repaid or canceled pursuant to a specified federal law.

This bill would exclude from an individual's gross income the amount of student loan indebtedness discharged on or after December 31, 2011 due to the death or disability of the student, as provided.

(4) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow various deductions from gross income in computing adjusted gross income under those laws, including a deduction, as trade or business expense, of the premiums paid pursuant to an assessment by the Federal Deposit Insurance Corporation.

This bill would conform to the federal Tax Cuts and Jobs Act, by disallowing or limiting the amount specified taxpayers may deduct for these premiums depending on the amount of total consolidated assets, as defined, of the taxpayer.

(5) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, allow a deduction from gross income in computing adjusted gross income of ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Existing law prohibits a deduction from being allowed with respect to any covered employee of a publicly held corporation if the amount of applicable employee remuneration exceeds $1,000,000.

This bill would conform to the federal Tax Cuts and Jobs Act, by revising the definitions of covered employee and publicly held corporation to limit the amount those specified taxpayers may deduct for ordinary and necessary expenses. The bill would also disallow the performance-based compensation and commission exceptions with respect to the deduction limitation relating to covered employees.

(6) The Personal Income Tax Law and the Corporation Tax Law allow net operating losses attributable to taxable years beginning on or after January 1, 2013, to be carrybacks to each of the preceding 2 taxable years, as provided.

This bill would disallow the use of net operating loss carrybacks by individual and corporate taxpayers.

(7) The federal Tax Cuts and Jobs Act allows a small business to use the cash method of accounting if its average annual gross receipts for the 3 taxable years ending with the prior taxable year do not exceed $25,000,000.

The Personal Income Tax Law and the Corporation Tax Law allows a small business to use the cash method of accounting if its average annual gross receipts for the 3 taxable years ending with the prior taxable year do not exceed $5,000,000.

This bill, for taxable years beginning on or after January 1, 2019, would conform the Personal Income Tax Law and the Corporation Tax Law to the

increase to $25,000,000 made by the federal Tax Cuts and Jobs Act in the allowable amount of annual gross receipts of a small business allowed to use the cash method of accounting. The bill would allow a taxpayer to elect to have this conformity apply to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

(8) The federal Tax Cuts and Jobs Act exempts a corporation engaged in farming that has average annual gross receipts for the 3 taxable years ending with the prior taxable year not exceeding $25,000,000 from computing its taxable income by using the accrual method of accounting.

The Personal Income Tax Law and the Corporation Tax Law exempt a corporation engaged in farming that has average annual gross receipts for the 3 taxable years ending with the prior taxable year not exceeding $5,000,000 from computing taxable income by using the accrual method of accounting.

This bill, for taxable years beginning on or after January 1, 2019, would conform the Personal Income Tax Law and the Corporation Tax Law to the increase to $25,000,000 made by the Tax Cuts and Jobs Act in the amount of average annual gross receipts of a farming corporation that is exempt from using the accrual method of accounting. The bill would allow a taxpayer to elect to have this conformity apply to taxable years beginning on or after January 1, 2018, and before January 1, 2019. The bill would also make conforming changes related to suspense allowances, as provided.

(9) The federal Tax Cuts and Jobs Act exempts a taxpayer with average annual gross receipts for the 3 taxable years ending with the prior taxable year of $25,000,000 or less from the provisions that preclude the deduction of certain direct and indirect costs and determine whether those property costs are inventory costs or are capitalized.

The Personal Income Tax Law and the Corporation Tax Law exempts a taxpayer with average annual gross receipts for the 3 taxable years ending with the prior taxable year of $10,000,000 or less from the provisions that preclude the deduction of certain direct and indirect costs and determine whether those property costs are inventory costs or are capitalized.

This bill, for taxable years beginning on or after January 1, 2019, would conform the Personal Income Tax Law and the Corporation Tax Law to the increase to $25,000,000 made by the Tax Cuts and Jobs Act in the amount of average annual gross receipts of a taxpayer exempt from those provisions precluding the deductibility of certain property costs and determining whether those costs are inventory costs or are capitalized. The bill would allow a taxpayer to elect to have this conformity apply to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

(10) The federal Tax Cuts and Jobs Act exempts a small business with average annual gross receipts for the 3 taxable years ending with the prior taxable year not exceeding $25,000,000 from the provisions that require a taxpayer to take inventories to clearly determine their income.

The Personal Income Tax Law and the Corporation Tax Law conforms to the provisions of the Internal Revenue Code relating to the requirement

that a taxpayer take inventories to clearly determine their income, but does not allow an exemption.

This bill, for taxable years beginning on or after January 1, 2019, would conform the Personal Income Tax Law and the Corporation Tax Law to the exemption in the Tax Cuts and Jobs Act of a small business with average annual gross receipts for the 3 taxable years ending with the prior taxable year not exceeding $25,000,000 from the provisions that require a taxpayer to take inventories to clearly determine their income. The bill would allow a taxpayer to elect to have this conformity apply to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

(11) The federal Tax Cuts and Jobs Act exempts construction contracts entered into by a taxpayer with average annual gross receipts not exceeding $25,000,000 from the requirement that the taxable income from a long-term contract be determined by the percentage of completion method.

The Personal Income Tax Law and the Corporation Tax Law exempts construction contracts entered into by a taxpayer with average annual gross receipts for the 3 taxable years ending with the prior taxable year not exceeding $10,000,000 from the requirement that the taxable income from a long-term contract be determined by the percentage of completion method.

This bill would conform the Personal Income Tax Law and the Corporation Tax Law to the exemption in the Tax Cuts and Jobs Act of construction contracts entered into by a taxpayer with average annual gross receipts not exceeding $25,000,000 from the requirement that the taxable income from a long-term contract be determined by the percentage of completion method. This conformity would apply to contracts entered into on or after the effective date of this act, as provided, and would allow, where applicable, a taxpayer to elect to have the conformity apply to contracts entered into on or after January 1, 2018, and before the effective date of this act.

(12) The Personal Income Tax Law generally allows a noncorporate taxpayer to deduct business losses from a pass through entity, like an “S” corporation.

Under the federal Tax Cuts and Jobs Act, for taxable years beginning after December 31, 2017, and before January 1, 2026, excess business losses, as defined, of a noncorporate taxpayer are not allowed as a deduction and instead those losses must be carried forward and treated as a net operating loss in subsequent taxable years, as provided.

This bill, for taxable years beginning after December 31, 2018, would provide modified conformity to the above-described limitation, including not conforming to the federal sunset date.

(13) The Personal Income Tax Law conforms as of a specified date to federal income tax laws, January 1, 2015, and therefore allows for the termination of a partnership by the sale or exchange of 50% or more of the interest in a partnership within a 12-month period. The federal Tax Cuts and Jobs Act repealed that provision of federal income tax law for taxable years beginning on or after January 1, 2018.

This bill would conform to federal income tax law with regard to the termination of partnerships described above and would additionally allow a partnership to elect to have this conformity apply to partnership taxable years beginning after December 31, 2017, and before January 1, 2019.

This bill would make findings as to the public purpose served by the bill in this regard.

(14) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, exclude the recognition of any gain or loss on the exchange of property held for productive use in a trade or business or for investment, if that property is exchanged solely for property of a like kind that is to be held either for productive use in a trade or business or for investment, unless an exception applies.

This bill would conform to federal income tax law, as amended by the Tax Cuts and Jobs Act, by limiting that exclusion to the recognition of any gain or loss on the exchange of real property, except as otherwise provided.

(15) The Corporation Tax Law, in conformity with federal income tax laws, and when a taxpayer does not elect otherwise for purposes of state income tax law, allows a purchasing corporation to make an election that its qualified stock purchase, as defined, from a target corporation may be treated as an asset acquisition resulting in a step up in the basis of the stock.

This bill would provide that if the above-described election for federal income tax purposes has been made or deemed to have been made, or not made or not deemed to have been made, by a taxpayer, a separate state election shall not be allowed.

(16) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. This act shall be known, and may be cited, as the "Loophole Closure and Small Business and Working Families Tax Relief Act of 2019."

SEC. 2. Section 17052 of the Revenue and Taxation Code is amended to read:

17052. (a) (1) For each taxable year beginning on or after January 1, 2015, there shall be allowed against the "net tax," as defined by Section 17039, an earned income tax credit in an amount equal to an amount determined in accordance with Section 32 of the Internal Revenue Code, relating to earned income, as applicable for federal income tax purposes for the taxable year, except as otherwise provided in this section.

(2) (A) The amount of the credit determined under Section 32 of the Internal Revenue Code, relating to earned income, as modified by this section, shall be multiplied by the earned income tax credit adjustment factor for the taxable year.

(B) Unless otherwise specified in the annual Budget Act, the earned income tax credit adjustment factor for a taxable year beginning on or after January 1, 2015, shall be 0 percent.

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

(b) (1) In lieu of the table prescribed in Section 32(b)(1) of the Internal Revenue Code, relating to percentages, the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	7.65%	7.65%
1 qualifying child	34%	34%
2 qualifying children	40%	40%
3 or more qualifying children	45%	45%

(2) (A) In lieu of the table prescribed in Section 32(b)(2)(A) of the Internal Revenue Code, the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$3,290	$3,290
1 qualifying child	$4,940	$4,940
2 or more qualifying children	$6,935	$6,935

(B) Section 32(b)(2)(B) of the Internal Revenue Code, relating to joint returns, shall not apply.

(c) (1) Section 32(c)(1)(A)(ii)(I) of the Internal Revenue Code is modified by substituting “this state” for “the United States.”

(2) For each taxable year beginning on or after January 1, 2018, Section 32(c)(1)(A)(ii)(II) of the Internal Revenue Code is modified by deleting “25 but not attained age 65” and inserting in lieu thereof the following: “18.”

(3) Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

(A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is modified by deleting “plus” and inserting in lieu thereof the following: “and only if such amounts are subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.”

(B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall not apply.

(4) For taxable years beginning on or after January 1, 2017, paragraph (3) shall not apply and in lieu thereof Section 32(c)(2)(A) of the Internal Revenue Code is modified as follows:

(A) Section 32(c)(2)(A)(i) of the Internal Revenue Code is modified by deleting "plus" and inserting in lieu thereof the following: "and only if such amounts are subject to withholding pursuant to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code, plus."

(B) Section 32(c)(2)(A)(ii) of the Internal Revenue Code shall apply.

(5) Section 32(c)(3)(C) of the Internal Revenue Code, relating to place of abode, is modified by substituting "this state" for "the United States."

(d) Section 32(i)(1) of the Internal Revenue Code is modified by substituting "$3,400" for "$2,200."

(e) (1) In lieu of Section 32(j) of the Internal Revenue Code, relating to inflation adjustments, for taxable years beginning on or after January 1, 2016, the amounts specified in paragraph (2) of subdivision (b) and in subdivision (d) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(2) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, when recomputing the amounts referenced in paragraph (1), the percentage change in the California Consumer Price Index shall be deemed to be the greater of 3.1 percent or the percentage change in the California Consumer Price Index as calculated under subdivision (h) of Section 17041 for that taxable year.

(3) For each taxable year beginning on or after January 1, 2019, and before January 1, 2020, when recomputing the amounts referenced in paragraph (1), the percentage change in the California Consumer Price Index shall be deemed to be the greater of 3.5 percent or the percentage change in the California Consumer Price Index as calculated under subdivision (h) of Section 17041 for that taxable year.

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

(g) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

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

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

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

(i) (1) For the purpose of implementing the credit allowed by this section for the 2015 taxable year, the Franchise Tax Board shall be exempt from the following:

(A) Special Project Report requirements under State Administrative Manual Sections 4819.36, 4945, and 4945.2.

(B) Special Project Report requirements under Statewide Information Management Manual Section 30.

(C) Section 11.00 of the 2015 Budget Act.

(D) Sections 12101, 12101.5, 12102, and 12102.1 of the Public Contract Code.

(2) The Franchise Tax Board shall formally incorporate the scope, costs, and schedule changes associated with the implementation of the credit allowed by this section in its next anticipated Special Project Report for its Enterprise Data to Revenue Project.

(j) (1) In accordance with Section 41 of the Revenue and Taxation Code, the purpose of the California Earned Income Tax Credit is to reduce poverty among California's poorest working families and individuals. To measure whether the credit achieves its intended purpose, the Franchise Tax Board shall annually prepare a written report on the following:

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

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

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

(D) The distribution of credits by number of dependents and income ranges. The income ranges shall encompass the phase-in and phaseout ranges of the credit.

(E) Using data from tax returns claiming the credit, including an estimate of the federal tax credit determined under Section 32 of the Internal Revenue Code, an estimate of the number of families who are lifted out of deep poverty by the credit and an estimate of the number of families who are lifted out of deep poverty by the combination of the credit and the federal tax credit. For the purposes of this subdivision, a family is in "deep poverty" if the income of the family is less than 50 percent of the federal poverty threshold.

(2) The Franchise Tax Board shall provide the written report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on

Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Senate and Assembly Committees on Human Services.

(k) The tax credit allowed by this section shall be known as the California Earned Income Tax Credit.

(*l*) The amendments made to this section by Chapter 722 of the Statutes of 2016 shall apply to taxable years beginning on or after January 1, 2016.

(m) (1) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	2.20%	1.22%
1 qualifying child	3.10%	2.29%
2 qualifying children	2.13%	3.45%
3 or more qualifying children	2.12%	3.49%

(2) For each taxable year beginning on or after January 1, 2017, and before January 1, 2018, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred dollars ($100) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty dollars ($250) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$5,354	$5,354
1 qualifying child	$9,484	$9,484
2 qualifying children	$13,794	$13,794

3 or more qualifying children	$13,875	$13,875

(n) (1) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	2.20%	1.08%
1 qualifying child	3.10%	2.00%
2 qualifying children	2.13%	2.82%
3 or more qualifying children	2.12%	2.85%

(2) For each taxable year beginning on or after January 1, 2018, and before January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to one hundred three dollars ($103) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to two hundred fifty-eight dollars ($258) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$5,520	$5,520
1 qualifying child	$9,778	$9,778
2 qualifying children	$14,222	$14,222
3 or more qualifying children	$14,305	$14,305

(o) (1) For each taxable year beginning on or after January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less

than or equal to two hundred dollars ($200) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to five hundred five dollars ($505) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, and the earned income amount is greater than or equal to the corresponding amount in the table set forth in paragraph (2) below, then in lieu of the table prescribed in paragraph (1) of subdivision (b), the credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
No qualifying children	5.43%	0.92%
1 qualifying child	6.33%	2.88%
2 qualifying children	4.20%	3.75%
3 or more qualifying children	4.15%	3.78%

(2) For each taxable year beginning on or after January 1, 2019, if the amount of credit computed pursuant to subdivisions (a) and (b) is less than or equal to two hundred dollars ($200) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with no qualifying children, or less than or equal to five hundred five dollars ($505) multiplied by the ratio of the earned income tax credit adjustment factor for that taxable year divided by 0.85 for an eligible individual with one or more qualifying children, then in lieu of the table prescribed in subparagraph (A) of paragraph (2) of subdivision (b), the earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
No qualifying children	$4,334	$4,334
1 qualifying child	$9,381	$9,381
2 qualifying children	$14,137	$14,137
3 or more qualifying children	$14,302	$14,302

(3) For taxable years beginning on or after January 1, 2020, and until and including the taxable year in which the minimum wage, as defined in Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, both of the following shall occur:

(A) The amounts in paragraphs (1) and (2) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(B) The phaseout percentage for each of the four categories of eligible individuals shall be recalculated by the Franchise Tax Board in such a manner that, for a taxpayer with an earned income of thirty thousand dollars ($30,000), the calculated amount of credit is equal to zero.

(4) For taxable years beginning after the taxable year in which the minimum wage, as defined in Section 1182.12 of the Labor Code, is set at fifteen dollars ($15) per hour, the amounts in paragraphs (1) and (2) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

SEC. 3. Section 17052.1 is added to the Revenue and Taxation Code, to read:

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

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

(B) The young child tax credit allowable in any taxable year to any qualified taxpayer shall be limited to a maximum of one thousand dollars ($1,000).

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

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

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

(b) "Qualified taxpayer" means an eligible individual who has been allowed a tax credit under Section 17052 and has at least one qualifying child.

(c) "Qualifying child" shall have the same meaning as under Section 17052, except that the child shall be younger than 6 years old as of the last day of the taxable year.

(d) (1) The Franchise Tax Board may prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

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

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

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

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

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

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

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

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

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

SEC. 4. Section 17140 of the Revenue and Taxation Code is amended to read:

17140. (a) For purposes of this section, the following terms have the following meanings as provided in the Golden State Scholarshare Trust Act

(Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) "Beneficiary" has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) "Benefit" has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) "Participant" has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) "Participation agreement" has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) "Scholarshare trust" has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) For taxable years beginning on or after January 1, 1998, and before January 1, 2002, except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) For taxable years beginning on or after January 1, 1998, and before January 1, 2002:

(1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee's minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, "distribution" includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another

beneficiary under the Scholarshare trust who is a "member of the family," as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a "member of the family," as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors and to other definitions and special rules, respectively, shall apply, except as otherwise provided in Part 11 (commencing with Section 23001) and this part.

(e) (1) The amendments made by Section 302(a)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(e) of the Internal Revenue Code, relating to other definitions and special rules, shall apply except as otherwise provided.

(2) The amendments made by Section 302(b)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3) of the Internal Revenue Code, relating to distributions, shall apply, except as otherwise provided.

(3) The amendments made by Section 302(c)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3)(D) of the Internal Revenue Code, relating to special rule for contributions of refunded amounts, shall apply, except as otherwise provided.

(f) (1) The amendments made by Section 11025(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c)(3)(C) of the Internal Revenue Code, relating to change in beneficiaries or programs, shall apply, except as otherwise provided.

(2) (A) The amendments made by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors, shall not apply, except as otherwise provided.

(B) The amendments made by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(e)(3)(A) of the Internal Revenue Code, relating to qualified higher education expenses, shall not apply, except as otherwise provided.

(C) In the case of any distribution made under Section 529(e)(3)(A) of the Internal Revenue Code, as amended by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), that would be treated for federal income tax purposes as a "qualified higher education expense" under Section 529(c)(7) of the Internal Revenue Code, as added by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97), the amount of that distribution shall, notwithstanding anything in Section 529 of the Internal Revenue Code to the contrary, be includable in the gross income of the

distributee in the manner as provided under Section 72 of the Internal Revenue Code.

(D) Any distribution includable in the gross income of a distributee under subparagraph (C) shall not affect the exempt status of the qualified tuition program under Section 529 of the Internal Revenue Code for purposes of this part.

SEC. 5. Section 17140.3 of the Revenue and Taxation Code is amended to read:

17140.3. Section 529 of the Internal Revenue Code, relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529 (a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under this part and Part 11 (commencing with Section 23001)" in lieu of the phrase "under this subtitle."

(2) By substituting "Article 2 (commencing with Section 23731)" in lieu of "Section 511."

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(c) (1) The amendments made by Section 302(a)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(e) of the Internal Revenue Code, relating to other definitions and special rules, shall apply except as otherwise provided.

(2) The amendments made by Section 302(b)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3) of the Internal Revenue Code, relating to distributions, shall apply, except as otherwise provided.

(3) The amendments made by Section 302(c)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3)(D) of the Internal Revenue Code, relating to special rule for contributions of refunded amounts, shall apply, except as otherwise provided.

(d) (1) The amendments made by Section 11025(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c)(3)(C) of the Internal Revenue Code, relating to change in beneficiaries or programs, shall apply, except as otherwise provided.

(2) (A) The amendments made by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors, shall not apply, except as otherwise provided.

(B) The amendments made by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(e)(3)(A) of the Internal Revenue Code, relating to qualified higher education expenses, shall not apply, except as otherwise provided.

(C) In the case of any distribution made under Section 529(e)(3)(A) of the Internal Revenue Code, as amended by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), that would be treated for federal income tax purposes as a "qualified higher education expense" under Section

529(c)(7) of the Internal Revenue Code, as added by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97), the amount of that distribution shall, notwithstanding anything in Section 529 of the Internal Revenue Code to the contrary, be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code.

(D) Any distribution includable in the gross income of a distributee under subparagraph (C) shall not affect the exempt status of the qualified tuition program under Section 529 of the Internal Revenue Code for purposes of this part.

SEC. 6. Section 17140.4 of the Revenue and Taxation Code is amended to read:

17140.4. For taxable years beginning on or after January 1, 2016, Section 529A of the Internal Revenue Code, relating to qualified ABLE programs, added by Section 102 of Division B of Public Law 113-295, shall apply, except as otherwise provided.

(a) Section 529A(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under this part and Part 11 (commencing with Section 23001)" in lieu of the phrase "under this subtitle."

(2) By substituting "Article 2 (commencing with Section 23731)" in lieu of "Section 511."

(b) Section 529A(c)(3)(A) of the Internal Revenue Code is modified by substituting "2.5 percent" in lieu of "10 percent."

(c) A copy of the report required to be filed with the Secretary of the Treasury under Section 529A(d) of the Internal Revenue Code, relating to reports, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(d) (1) The amendments made by Section 303(a) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529A(b)(1) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

(2) The amendments made by Section 303(b) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Sections 529A(d)(3) and 529A(e) of the Internal Revenue Code, relating to qualified ABLE programs shall apply, except as otherwise provided.

(3) The amendments made by Section 303(c) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Sections 529A(d)(4) and 529A(c)(1)(C)(i) of the Internal Revenue Code, relating to qualified ABLE program, shall apply, except as otherwise provided.

(e) The amendments made by Section 11024(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529A(b)(2)(B) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

SEC. 7. Section 17144.8 is added to the Revenue and Taxation Code, to read:

17144.8. (a) Section 108(f)(5) of the Internal Revenue Code, relating to discharges on account of death or disability, as added by Section 11031(a)

of the federal Tax Cuts and Jobs Act (Public Law 115-97), shall apply except as otherwise provided.

(b) Section 108(f)(5)(A) of the Internal Revenue Code, as added by Section 11031(a) of the federal Tax Cuts and Jobs Act (Public Law 115-97), is modified by substituting the phrase "after December 31, 2018," in lieu of the phrase "after December 31, 2017, and before January 1, 2026."

SEC. 8. Section 17201.2 is added to the Revenue and Taxation Code, to read:

17201.2. (a) The amendments made by Section 13531(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to add Section 162(r) to the Internal Revenue Code, relating to the disallowance of FDIC premiums paid by certain large financial institutions, shall apply, except as otherwise provided.

(b) For purposes of this section, Article 9 (commencing with Section 23361) of Chapter 2 of Part 11 shall not apply.

SEC. 9. Section 17271 is added to the Revenue and Taxation Code, to read:

17271. (a) The amendments made by Section 13601(a), (b), (c), and (d) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 162(m) of the Internal Revenue Code, relating to certain excessive employee remuneration, shall apply, except as otherwise provided.

(b) The amendments made by Section 13601(e)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to exception for binding contracts, shall apply, and is modified by substituting "March 31, 2019" for "November 2, 2017."

SEC. 10. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the

net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning after December 31, 2018, and before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, and before January 1, 2019, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, and before January 1, 2019, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 taxable years" except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any taxable year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning before January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence does not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Acquired assets that constituted property described in Section 1221(a)(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(a)(1) of the

Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In a case in which a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In a case in which a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In a case in which the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1).

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial

products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(h) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(i) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(j) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 11. Section 17276.21 of the Revenue and Taxation Code is amended to read:

17276.21. (a) Notwithstanding Sections 17276, 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

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

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2019.

(d) The provisions of this section do not apply to the following taxpayers:

(1) For a taxable year beginning on or after January 1, 2008, and before January 1, 2010, this section does not apply to a taxpayer with net business income of less than five hundred thousand dollars ($500,000) for the taxable year. For purposes of this paragraph, business income means:

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

purposes of this paragraph, the term "passthrough entity" means a partnership or an "S" corporation.

(B) Income from rental activity.

(C) Income attributable to a farming business.

(2) For a taxable year beginning on or after January 1, 2010, and before January 1, 2012, this section does not apply to a taxpayer with modified adjusted gross income of less than three hundred thousand dollars ($300,000) for the taxable year. For purposes of this paragraph, "modified adjusted gross income" means the amount described in paragraph (2) of subdivision (h) of Section 17024.5, determined without regard to the deduction allowed under Section 172 of the Internal Revenue Code, relating to net operating loss deduction.

SEC. 12. Section 17276.22 of the Revenue and Taxation Code is amended to read:

17276.22. Notwithstanding Section 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, or 17276.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2019, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 13. Section 17560.5 of the Revenue and Taxation Code is amended to read:

17560.5. (a) Section 461(j) of the Internal Revenue Code, relating to limitation on excess farm losses of certain taxpayers, shall not apply.

(b) (1) Section 11012(a) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to limitation on excess business losses on noncorporate taxpayers, shall apply except as otherwise provided.

(2) Section 461(*l*)(1) of the Internal Revenue Code, relating to limitation, as amended by Section 11012(a) of the Tax Cuts and Jobs Act (Public Law 115-97), is modified by substituting "beginning after December 31, 2018" for the phrase "beginning after December 31, 2017, and before January 1, 2026."

(3) Section 461(*l*)(2) of the Internal Revenue Code, relating to disallowed loss carryover, as amended by Section 11012(a) of the Tax Cuts and Jobs Act (Public Law 115-97), is modified by substituting "Any loss which is disallowed under paragraph (1) shall be treated as a carryover excess business loss for the following taxable year." for "Any loss which is disallowed under paragraph (1) shall be treated as a net operating loss carryover to the following taxable year under section 172."

(4) Section 461(*l*)(3)(A) of the Internal Revenue Code, as amended by Section 11012 (a) of the Tax Cuts and Jobs Act (Public Law 115-97), is modified by inserting "(i) the sum of (I) Any prior year carryover excess business losses, plus" below "In general, the term "excess businesses loss means the excess (if any) of."

(5) Section 461(*l*)(3)(A)(i) of the Internal Revenue Code, as amended by Section 11012 (a) of the Tax Cuts and Jobs Act (Public Law 115-97), is modified by inserting "(II)" for "(i)".

(6) Section 461(*l*)(6) of the Internal Revenue Code, relating to coordination with section 469, as amended by Section 11012(a) of the Tax Cuts and Jobs Act (Public Law 115-97), is modified by substituting "Section 17561" for "section 469."

SEC. 14. Section 17563.51 is added to the Revenue and Taxation Code, to read:

17563.51. (a) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 447 of the Internal Revenue Code, relating to method of accounting for corporations engaged in farming, shall apply, except as otherwise provided.

(b) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(e)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to preservation of suspense account rules with respect to any existing suspense accounts, shall apply to any suspense account existing as of the effective date of the act adding this subdivision.

(c) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 448 of the Internal Revenue Code, relating to limitation on use of cash method of accounting, shall apply, except as otherwise provided.

(d) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 263A of the Internal Revenue Code, relating to capitalization and inclusion in inventory cost of certain expenses, shall apply, except as otherwise provided.

(e) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(c) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 471 of the Internal Revenue Code, relating to the general rule for inventories, shall apply, except as otherwise provided.

(f) (1) Any change in method of accounting made pursuant to this section shall be treated for purposes of applying Section 481 of the Internal Revenue Code, as applicable for California purposes under Section 17551, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(2) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to subdivisions (a) to (e), inclusive.

(3) (A) Notwithstanding paragraph (2) and except as provided in subparagraph (B), a taxpayer may elect to apply the provisions of this section to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

(B) Notwithstanding paragraph (2), a taxpayer may elect to apply the provisions of subdivision (b) to suspense accounts established before the effective date of the act adding this subdivision.

SEC. 15. Section 17564 of the Revenue and Taxation Code is amended to read:

17564. (a) Long-term contracts shall be accounted for in accordance with the special rules set forth in Section 460 of the Internal Revenue Code.

(b) (1) The provisions of Section 804(d) of Public Law 99-514, relating to the effective date of modifications in the method of accounting for long-term contracts, shall be applicable to taxable years beginning on or after January 1, 1987.

(2) In the case of a contract entered into after February 28, 1986, during a taxable year beginning before January 1, 1987, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for the taxable year in which the contract began.

(c) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 10203 of Public Law 100-203, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after October 13, 1987, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(d) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 5041 of Public Law 100-647, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after June 20, 1988, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(e) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 7621 of Public Law 101-239, relating to the repeal of the completed contract method of accounting for long-term contracts, shall apply to taxable years beginning on or after January 1, 1990.

(2) In the case of a contract entered into after July 10, 1989, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between California and federal law for taxable years beginning prior to January 1, 1990.

(f) For purposes of applying paragraphs (2) to (6), inclusive, of Section 460(b) of the Internal Revenue Code, relating to the look-back method, any adjustment to income computed under paragraph (2) of subdivision (b), (c),

(d), or (e) shall be deemed to have been reported in the taxable year from which the adjustment arose, rather than the taxable year in which the contract was completed.

(g) (1) For contracts entered into on or after the effective date of the act adding this subdivision, the amendments made by Section 13102(d) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 460 of the Internal Revenue Code, relating to special rules for long-term contracts, shall apply, except as otherwise provided.

(2) For contracts entered into on or after the effective date of the act adding this subdivision, the amendments made by Section 13102(e)(3) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to exemption from percentage completion for long-term contracts, shall apply, except as otherwise provided.

(3) (A) Any change in method of accounting made pursuant to this section shall be treated for purposes of applying Section 481 of the Internal Revenue Code, as applicable for California purposes under Section 17551, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision, where otherwise allowed, to contracts entered into on or after January 1, 2018, in taxable years ending after January 1, 2018.

SEC. 16. Section 17859 is added to the Revenue and Taxation Code, to read:

17859. (a) The amendments made by Section 13504 of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 708 of the Internal Revenue Code, relating to the continuation of a partnership, shall apply, except as otherwise provided.

(b) The amendments made by Section 13504 of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 743(e) of the Internal Revenue Code, relating to alternative rules for electing investment partnerships, shall apply, except as otherwise provided.

(c) The amendments made by Section 13504 of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 168(i)(7)(B) of the Internal Revenue Code, relating to transactions covered, shall apply, except as otherwise provided.

(d) (1) A partnership may elect to have subdivision (a) apply to partnership taxable years beginning after December 31, 2017, and before January 1, 2019, in which case subdivisions (b) and (c) shall also apply to the election.

(2) The Franchise Tax Board shall specify the form and manner in which the election under paragraph (1) shall be made, as well as whether an amended return or any other information shall be required.

(3) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, procedure,

or guideline established or issued by the Franchise Tax Board pursuant to paragraph (2).

SEC. 17. Section 18031.5 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 18031.5 is added to the Revenue and Taxation Code, to read:

18031.5. (a) The amendments made by Section 13303(a) and (b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 1031 of the Internal Revenue Code, relating to Exchange of real property held for productive use or investment, shall apply, except as otherwise provided in this section.

(b) (1) In the case of a taxpayer who is a head of household, a surviving spouse, or spouses filing a joint return, this section shall only apply to those taxpayers with adjusted gross income, as defined in Section 17072, of five hundred thousand dollars ($500,000) or more for the taxable year in which the exchange begins.

(2) In the case of a taxpayer filing an individual return, this section shall only apply to those taxpayers with adjusted gross income, as defined in Section 17072, of two hundred fifty thousand dollars ($250,000) or more for the taxable year in which the exchange begins.

(c) (1) This section shall apply to exchanges completed after January 10, 2019.

(2) This section shall not apply to an exchange where the property to be disposed of by the taxpayer in the exchange is disposed of by that taxpayer on or before January 10, 2019, or where the property to be received by the taxpayer in the exchange is received by that taxpayer on or before January 10, 2019.

SEC. 19. Section 19131.5 of the Revenue and Taxation Code is amended to read:

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

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

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

(3) Section 6164(b) of the Internal Revenue Code, relating to contents of statement, is modified by substituting the phrase “Section 24416” in lieu of the phrase “Section 172(b).”

(4) Section 6164(d)(2) of the Internal Revenue Code shall not apply.

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

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

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

(6) Section 6164(i) of the Internal Revenue Code, relating to consolidated returns, is modified by substituting the phrase "combined report" in lieu of the phrase "consolidated return" in each place it appears.

(c) This section shall not apply to a carryback of a net operating loss attributable to taxable years beginning on or after January 1, 2019.

SEC. 20. Section 23711 of the Revenue and Taxation Code is amended to read:

23711. Section 529 of the Internal Revenue Code, relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under Part 10 (commencing with Section 17001) and this part" in lieu of the phrase "under this subtitle."

(2) By substituting "Article 2 (commencing with Section 23731)" in lieu of "section 511."

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(c) (1) The amendments made by Section 302(a)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(e) of the Internal Revenue Code, relating to other definitions and special rules, shall apply except as otherwise provided.

(2) The amendments made by Section 302(b)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3) of the Internal Revenue Code, relating to distributions, shall apply, except as otherwise provided.

(3) The amendments made by Section 302(c)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3)(D) of the Internal Revenue Code, relating to special rule for contributions of refunded amounts, shall apply, except as otherwise provided.

(d) (1) The amendments made by Section 11025(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c)(3)(C) of the Internal Revenue Code, relating to change in beneficiaries or programs, shall apply, except as otherwise provided.

(2) (A) The amendments made by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors, shall not apply, except as otherwise provided.

(B) The amendments made by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(e)(3)(A) of the Internal Revenue Code, relating to qualified higher education expenses, shall not apply, except as otherwise provided.

(C) In the case of any distribution made under Section 529(e)(3)(A) of the Internal Revenue Code, as amended by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), that would be treated for federal income tax purposes as a "qualified higher education expense" under Section 529(c)(7) of the Internal Revenue Code, as added by Section 11032(a)(1)

of the Tax Cuts and Jobs Act (Public Law 115-97), the amount of that distribution shall, notwithstanding anything in Section 529 of the Internal Revenue Code to the contrary, be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code.

(D) Any distribution includable in the gross income of a distributee under subparagraph (C) shall not affect the exempt status of the qualified tuition program under Section 529 of the Internal Revenue Code for purposes of this part.

SEC. 21. Section 23711.4 of the Revenue and Taxation Code is amended to read:

23711.4. For taxable years beginning on or after January 1, 2016, Section 529A of the Internal Revenue Code, relating to qualified ABLE programs, added by Section 102 of Division B of Public Law 113-295, shall apply, except as otherwise provided.

(a) Section 529A(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under Part 10 (commencing with Section 17001) and this part" in lieu of the phrase "under this subtitle."

(2) By substituting "Article 2 (commencing with Section 23731)" in lieu of "Section 511."

(b) Section 529A(c)(3)(A) of the Internal Revenue Code is modified by substituting "2.5 percent" in lieu of "10 percent."

(c) A copy of the report required to be filed with the Secretary of the Treasury under Section 529A(d) of the Internal Revenue Code, relating to reports shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(d) (1) The amendments made by Section 303(a) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529A(b)(1) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

(2) The amendments made by Section 303(b) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Sections 529A(d)(3) and 529A(e) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

(3) The amendments made by Section 303(c) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Sections 529A(d)(4) and 529A(c)(1)(C)(i) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

(e) The amendments made by Section 11024(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529A(b)(2)(B) of the Internal Revenue Code, relating to qualified ABLE programs, shall apply, except as otherwise provided.

SEC. 22. Section 24343 of the Revenue and Taxation Code is amended to read:

24343. (a) Section 162 of the Internal Revenue Code, relating to trade or business expenses, shall apply, except as otherwise provided.

(b) For purposes of applying Section 162 of the Internal Revenue Code, any references to Section 170 of the Internal Revenue Code shall be modified to refer to Sections 24357 to 24359.1, inclusive, of this part.

(c) (1) The amendments made by Section 13601(a), (b), (c), and (d) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 162(m) of the Internal Revenue Code, relating to certain excessive employee remuneration, shall apply, except as otherwise provided.

(2) The amendments made by Section 13601(e)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to exception for binding contracts, shall apply, and is modified by substituting "March 31, 2019" for "November 2, 2017."

SEC. 23. Section 24343.1 is added to the Revenue and Taxation Code, to read:

24343.1. (a) The amendments made by Section 13531(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to add Section 162(r) to the Internal Revenue Code, relating to the disallowance of FDIC premiums paid by certain large financial institutions, shall apply, except as otherwise provided.

(b) For purposes of this section, Article 9 (commencing with Section 23361) of Chapter 2 of Part 11 shall not apply.

SEC. 24. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to amount of carrybacks and carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, “net loss” means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning after December 31, 2018, and before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, and before January 1, 2019, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, and before January 1, 2019, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2011.

(e) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "five taxable years" in lieu of "20 years" except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any income year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S" corporation, paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable

year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(a)(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(a)(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In a case in which a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In a case in which the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1).

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics.

Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 applies to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 25. Section 24416.21 of the Revenue and Taxation Code is amended to read:

24416.21. (a) Notwithstanding Sections 24416, 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2012.

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

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(2) By two years, for losses incurred in taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(3) By three years, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(4) By four years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2019.

(d) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2008, and before January 1, 2010, pursuant to subdivision (a) shall not apply to a taxpayer with income subject to tax under this part of less than five hundred thousand dollars ($500,000) for the taxable year.

(e) (1) The disallowance of any net operating loss deduction for any taxable year beginning on or after January 1, 2010, and before January 1, 2012, pursuant to subdivision (a) shall not apply to a taxpayer with preapportioned income of less than three hundred thousand dollars ($300,000) for the taxable year.

(2) For purposes of this subdivision, "preapportioned income" means net income after state adjustments, before the application of the apportionment and allocation provisions of this part.

(3) For taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the amount prescribed in paragraph (1) shall apply to the aggregate amount of preapportioned income for all members included in a combined report.

(f) Notwithstanding subdivision (a), this section shall not apply to a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain on sale during a taxable year ending prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code. An amended tax return claiming net operating loss deductions allowed pursuant to this subdivision shall be treated as a timely filed original return.

(g) The Legislature finds and declares that the addition of subdivision (f) to this section by the act adding this subdivision fulfills a statewide public purpose by providing necessary tax relief for a taxpayer that ceased to do business or has a final taxable year ending prior to August 28, 2008, that sold or transferred substantially all of its assets resulting in a gain or sale during a taxable year prior to August 28, 2008, for which the gain could be offset with existing net operating loss deductions and the sale or transfer occurred pursuant to a plan of reorganization under Chapter 11 of Title 11 of the United States Code, in order to ensure that these taxpayers are not permanently denied the net operating loss deduction.

SEC. 26. Section 24416.22 of the Revenue and Taxation Code is amended to read:

24416.22. Notwithstanding Section 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after

January 1, 2013, and before January 1, 2019, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 27. Section 24422.3 of the Revenue and Taxation Code is amended to read:

24422.3. (a) Section 263A of the Internal Revenue Code, relating to capitalization and inclusion in inventory costs of certain expenses, shall apply, except as otherwise provided.

(b) (1) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 263A of the Internal Revenue Code, relating to capitalization and inclusion in inventory cost of certain expenses, shall apply, except as otherwise provided.

(2) (A) Any change in method of accounting made pursuant to this subdivision shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

SEC. 28. Section 24451.1 is added to the Revenue and Taxation Code, to read:

24451.1. (a) Notwithstanding paragraph (3) of subdivision (e) of Section 23051.5, if an election has been made by a taxpayer under Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, or where a taxpayer is deemed to have made an election under Section 338(e) of the Internal Revenue Code, relating to deemed election where purchasing corporation acquires asset of target corporation, for federal income tax purposes, a separate election shall not be allowed under this part and the federal election shall be binding for purposes of this part, Part 10 (commencing with Section 17001), and Part 10.2 (commencing with Section 18401).

(b) Notwithstanding paragraph (3) of subdivision (e) of Section 23051.5, if an election has not been made by a taxpayer under Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, or where a taxpayer has not been deemed to have made an election under Section 338(e) of the Internal Revenue Code, relating to deemed election where purchasing corporation acquires asset of target corporation, for federal income tax purposes, the taxpayer shall not make a separate state election with respect to Section 338 of the Internal Revenue Code, relating to certain stock purchases treated as asset acquisitions, under this part.

(c) This section shall apply to acquisitions made on or after the effective date of this section, except as provided in subdivision (d).

(d) This section shall not apply in the case of an acquisition that is subject to a binding contract entered into before the effective date of this section and which remains binding at all times after that date.

SEC. 29. Section 24652 of the Revenue and Taxation Code is amended to read:

24652. (a) Section 447 of the Internal Revenue Code, relating to method of accounting for corporations engaged in farming, shall apply, except as otherwise provided.

(b) (1) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 447 of the Internal Revenue Code, relating to method of accounting for corporations engaged in farming, shall apply, except as otherwise provided.

(2) (A) Any change in method of accounting made pursuant to this subdivision shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

SEC. 30. Section 24652.6 is added to the Revenue and Taxation Code, to read:

24652.6. (a) For taxable years beginning on or after January 1, 2019, amendments made by Section 13102(e)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to preservation of suspense account rules with respect to any existing suspense accounts, shall apply to any suspense account existing as of the effective date of the act adding this subdivision that was not otherwise precluded by Section 24652.5.

(b) (1) Any change in method of accounting made pursuant to this section shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(2) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this section.

(3) Notwithstanding paragraph (2), a taxpayer may elect to apply the provisions of this section to suspense accounts established before the effective date of the act adding this section.

SEC. 31. Section 24654 of the Revenue and Taxation Code is amended to read:

24654. (a) Section 448 of the Internal Revenue Code, relating to limitation on use of cash method of accounting, shall apply, except as otherwise provided.

(b) For purposes of applying Section 448 of the Internal Revenue Code, Sections 801(d)(2), 801(d)(3), and 801(d)(5) of the Tax Reform Act of 1986 (Public Law 99-514), as modified by Section 1008(a) of Public Law 100-647, shall apply to each taxable year beginning on or after January 1, 1987.

(c) (1) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13102(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 448 of the Internal Revenue Code, relating to limitation on use of cash method of accounting, shall apply, except as otherwise provided.

(2) (A) Any change in method of accounting made pursuant to this subdivision shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

SEC. 32. Section 24673.2 of the Revenue and Taxation Code is amended to read:

24673.2. (a) Section 460 of the Internal Revenue Code, relating to special rules for long-term contracts, shall apply, except as otherwise provided.

(b) (1) Section 804(d) of Public Law 99-514, relating to the effective date of modifications in the method of accounting for long-term contracts, shall apply to taxable years beginning on or after January 1, 1987.

(2) In the case of a contract entered into after February 28, 1986, during a taxable year beginning before January 1, 1987, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for the taxable year in which the contract began.

(c) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 10203 of Public Law 100-203, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to each taxable year beginning on or after January 1, 1990.

(2) In the case of a contract entered into after October 13, 1987, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for each taxable year beginning prior to January 1, 1990.

(d) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 5041 of Public Law 100-647, relating to a reduction in the percentage of items taken into account under the completed contract method, shall apply to each taxable year beginning on or after January 1, 1990.

(2) In the case of a contract entered into after June 20, 1988, during a taxable year beginning before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting

from differences between state and federal law for each taxable year beginning prior to January 1, 1990.

(e) (1) The amendments to Section 460 of the Internal Revenue Code made by Section 7621 of Public Law 101-239, relating to the repeal of the completed contract method of accounting for long-term contracts, shall apply to each taxable year beginning on or after January 1, 1990.

(2) In the case of a contract entered into after July 10, 1989, during a taxable year beginning on or before January 1, 1990, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for each taxable year beginning prior to January 1, 1990.

(f) For purposes of applying paragraphs (2) to (6), inclusive, of Section 460(b) of the Internal Revenue Code, relating to the look-back method, any adjustment to income computed under paragraph (2) of subdivision (b), (c), (d), or (e) shall be deemed to have been reported in the taxable year from which the adjustment arose, rather than the taxable year in which the contract was completed.

(g) (1) For contracts entered into on or after the effective date of the act adding this subdivision, the amendments made by Section 13102(d) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 460 of the Internal Revenue Code, relating to special rules for long-term contracts, shall apply, except as otherwise provided.

(2) For contracts entered into on or after the effective date of the act adding this subdivision, the amendments made by Section 13102(e)(3) of the Tax Cuts and Jobs Act (Public Law 115-97), relating to exemption from percentage completion for long-term contracts, shall apply, expect as otherwise provided.

(3) (A) Any change in method of accounting made pursuant to this paragraph shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision, where otherwise allowed, to contracts entered into on or after January 1, 2018, in taxable years ending after January 1, 2018.

SEC. 33. Section 24701 of the Revenue and Taxation Code is amended to read:

24701. (a) Section 471 of the Internal Revenue Code, relating to the general rule for inventories, shall apply, except as otherwise provided.

(b) (1) For taxable years beginning on or after January 1, 2019, amendments made by Section 13102(c) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 471 of the Internal Revenue Code, relating to the general rule for inventories, shall apply, except as otherwise provided.

(2) (A) Any change in method of accounting made pursuant to this subdivision shall be treated for purposes of applying Section 24721, as initiated by the taxpayer and made with the consent of the Franchise Tax Board.

(B) Section 13102(e)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) does not apply to this subdivision.

(C) Notwithstanding subparagraph (B), a taxpayer may elect to apply the provisions of this subdivision to taxable years beginning on or after January 1, 2018, and before January 1, 2019.

(c) Section 472 of the Internal Revenue Code, relating to last-in, first-out inventories, shall apply, except as otherwise provided.

SEC. 34. Section 24941.5 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 24941.5 is added to the Revenue and Taxation Code, to read:

24941.5. (a) The amendments made by Section 13303(a) and (b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 1031 of the Internal Revenue Code, relating to Exchange of real property held for productive use or investment, shall apply, subject to subdivision (b).

(b) (1) This section shall apply to exchanges completed after January 10, 2019.

(2) This section shall not apply to an exchange where the property to be disposed of by the taxpayer in the exchange is disposed of by that taxpayer on or before January 10, 2019, or where the property to be received by the taxpayer in the exchange is received by that taxpayer on or before January 10, 2019.

SEC. 36. The Legislature finds and declares that providing partnerships the election under paragraph (1) of subdivision (d) of Section 17859 of the Revenue and Taxation Code to receive the same treatment as a partnership for federal tax purposes with respect to partnership technical terminations reduces federal and state differences on the tax returns of the partnership and its partners, thereby increasing compliance with California tax law, and thus serves a public purpose and does not constitute a prohibited gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 37. The Legislature hereby finds and declares that providing ABLE account beneficiaries the ability to contribute their own earnings to the ABLE account up to the federal poverty level and allowing Section 529 plan accounts to roll over to ABLE accounts eliminates differences in the qualification criteria for ABLE accounts under federal tax law and California tax law, and thus constitutes a public purpose and is not a prohibited gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 38. The Legislature hereby finds and declares that allowing taxpayers to make an election in order to receive the same treatment for California tax purposes as the taxpayer receives for federal tax purposes with respect to the taxpayer's accounting method for an entire taxable year constitutes a public purpose and is not a prohibited gift of public funds

within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 39. The Legislature hereby finds and declares that General Fund revenues generated pursuant to this bill are estimated to provide over $1 billion to schools through an increased Proposition 98 minimum funding level from the 2019–20 fiscal year to the 2022–23 fiscal year, inclusive.

SEC. 40. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide much needed tax relief to taxpayers in conformity with federal tax relief enacted in the last two years and to assist and benefit a broader section of working poor Californians, it is necessary that this act go into immediate effect.

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