AMENDED IN SENATE FEBRUARY 19, 2009

AMENDED IN SENATE FEBRUARY 14, 2009

AMENDED IN ASSEMBLY JANUARY 7, 2009

CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

# ASSEMBLY BILL No. 3

**Introduced by Assembly Member Evans**

January 5, 2009

An act to add Section ~~99040 to the Government Code, to amend Section 17054 of, to amend, and add Sections 10752 and 10752.1 of, to add Sections 6051.7, 6201.7, 7360.1, 7360.2, 7361.1, 7653.1, 10752.2, 17044, 60050.2, 60050.3, 60050.4, and 60201.4 to, the Revenue and Taxation Code, and to amend Sections 163 and 164 of the Streets and Highways Code, relating to~~ *99040 to the Government Code, to amend Sections 17041, 17054, and 17062 of, to amend and add Sections 10752 and 10752.1 of, and to add Sections 6051.7, 6201.7, and 10752.2 to, the Revenue and Taxation Code, relating to* taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 3, as amended, Evans. Income taxes: sales and use taxes: ~~motor vehicle and diesel fuel taxes:~~ vehicle license fees.

~~(1) The~~

*The* Personal Income Tax Law imposes taxes based upon taxable income. That law also allows credits for personal exemptions, *and imposes an alternative minimum tax, as specified*.

This bill would, *for taxable years beginning on or after January 1, 2009,* until *either January 1, 2011, or* January 1, 2013, ~~impose an~~

~~additional tax at a specified rate of tax liability and~~ *as applicable,* decrease the amount allowable as a credit for personal exemption for dependents.

*This bill would, for taxable years beginning on or after January 1, 2009, and before January 1, 2013, increase the tax rate applicable to taxable income, and increase the alternative minimum tax rate, as provided.*

~~(2) The~~

*The* Vehicle License Fee Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 0.65% of the market value of that vehicle, as provided.

This bill would, on and after May 19, 2009, and until July 1, 2013, increase that rate to 1%, for specified vehicles and require that the revenues derived from the increase be deposited into the General Fund.

This bill would also, on and after May 19, 2009, and until July 1, 2013, add a sum equal to 0.15% of the market value of specified vehicles, as determined by the Department of Motor Vehicles, to the vehicle ~~registration~~ *license* fee, to be deposited in the General Fund and transferred to the Local Safety and Protection Account, which this bill would create in the Transportation Tax Fund. This bill would continuously appropriate all moneys in the account to the Controller for allocation for, specified purposes. This bill would require the Director of Finance to make written determinations, as specified, of whether any moneys derived from that fee are being allocated for any purpose other than the specified purpose, and to immediately submit his or her written determination to the Director of the Department of Motor Vehicles and specified legislative committees, as provided.

The bill would further provide that if the Director of Finance determines that moneys are being allocated by the state for an unauthorized purpose, the Director of the Department of Motor Vehicles shall, upon receipt of the written determination, immediately stop collection of the fee, and shall resume collection only upon his or her receipt of a written determination by the Director of Finance that none of the moneys are being allocated for an unauthorized purpose.

~~(3) Existing~~

*Existing* law imposes a state sales and use tax on retailers and on the storage, use, or other consumption of tangible personal property in this state at the rate of 6 1/4% of the gross receipts from the retail sale of tangible personal property in this state and of the sales price of tangible personal property purchased from any retailer for storage, use, or other consumption in this state.

This bill would increase the state sales and use tax rate on the sale of, and on the storage, use, or other consumption of, tangible personal property, by 1% to a rate of 7 $\frac{1}{4}$% from April 1, 2009, until July 1, 2012.

~~(4) Existing law imposes a tax upon the removal, entry, sale, delivery, or specified use of motor vehicle and diesel fuel, at the rate of $0.18 per gallon. Existing law deposits the revenues derived from the imposition of this tax in several accounts, including the Aeronautics Account in the State Transportation Fund, a continuously appropriated account.~~

~~This bill would, on April 1, 2009, until July 1, 2013, impose an additional tax at the rate of $0.12 per gallon on the removal, entry, sale, delivery, or specified use of motor vehicle and diesel fuel. The bill also would, for the privilege of storing for the purpose of sale, require each blender, wholesaler, and retailer owning 1,000 gallons or more of motor vehicle or diesel fuel on April 1, 2009, until July 1, 2013, on which the tax of $0.18 has been imposed, to pay a tax of $0.12 on each gallon of the motor vehicle or diesel fuel in storage, as specified. Furthermore, this bill, by increasing amounts deposited in a continuously appropriated account, would make an appropriation.~~

~~The Legislature has established a policy for the use of transportation funds available to the state, including funds in the State Highway Account.~~

~~This bill would authorize, for fiscal years 2008–09 and 2009–10 combined, up to 90% of the funds in that account derived from the additional motor vehicle and diesel fuel taxes and fuel storage taxes imposed by this bill, to be used for purposes authorized by Section 5 of Article XIX of the California Constitution. This bill would provide that, in subsequent fiscal years, no more than half of those funds may be used in each fiscal year for that purposes. This bill would also specify that annual expenditures for debt service shall be based on the Budget Act or a long range debt service schedule provided by the Department of Finance.~~

~~This bill would provide that if the funds appropriated in the Budget Act of 2008 and 2009 for prior year debt service from funds derived from the additional motor vehicle and diesel fuel taxes and fuel storage taxes imposed by this bill, are not used for that purpose, those funds may not be used for any other purpose than offsetting the costs of current debt service on transportation bonds approved by the voters prior to~~

~~January 1, 2009, and will be retained in Transportation Debt Service Fund until used for that purpose.~~

This bill would ~~modify~~ *reduce* the operative periods for the ~~increase~~ *increases proposed by this bill* in specified income, sales and use~~, and fuel excise taxes,~~ and vehicle license fees, if specified conditions occur~~, as provided~~.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

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

Vote: 2⁄3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 99040 is added to the Government Code, to read:

99040. The Director ~~of the Department~~ of Finance shall immediately notify the Joint Legislative Budget Committee, the Executive Officer of the Franchise Tax Board, the Executive Director of the State Board of Equalization, and the Director of the Department of Motor Vehicles when and if an amendment to the California Constitution is approved at a statewide election held during the 2009 calendar year, that limits the total amount that, under Section 20 of Article XVI of the California Constitution, may be transferred by statute from the Budget Stabilization Account, or any successor to that account, to the General Fund.

SEC. 2. Section 6051.7 is added to the Revenue and Taxation Code, to read:

6051.7. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state, on and after April 1, 2009.

(b) This section shall cease to be operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.

SEC. 3. Section 6201.7 is added to the Revenue and Taxation Code, to read:

6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state, at the rate of 1 percent of the sales price of the property, on and after April 1, 2009.

(b) This section shall cease to be operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.

~~SEC. 4. Section 7360.1 is added to the Revenue and Taxation Code, to read:~~

~~7360.1. (a) On and after April 1, 2009, in addition to any other tax, a tax of twelve cents ($0.12) is hereby imposed upon each gallon of fuel subject to the tax in Sections 7362, 7363, and 7364.~~

~~(b) This section shall cease to be operative on July 1, 2011, unless the Director of the Department of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2013.~~

~~SEC. 5. Section 7360.2 is added to the Revenue and Taxation Code, to read:~~

~~7360.2. For purposes of California law, all references to the tax imposed pursuant to Section 7360 shall also include the tax imposed pursuant to Section 7360.1.~~

~~SEC. 6. Section 7361.1 is added to the Revenue and Taxation Code, to read:~~

~~7361.1. (a) For the privilege of storing for the purpose of sale, each blender, wholesaler, and retailer owning 1,000 gallons or more of tax-paid motor vehicle fuel on April 1, 2009, shall pay a~~

~~tax of twelve cents ($0.12) on each gallon of the tax-paid motor vehicle fuel in storage according to the volumetric measure thereof.~~

~~(b) For purposes of this section, the following terms have the following meanings:~~

~~(1) "Owning" means having title to the motor vehicle fuel.~~

~~(2) "Retailer" means any person who sells motor vehicle fuel in this state to a person who subsequently uses the motor vehicle fuel.~~

~~(3) "Storing" includes the possession in a storage facility, except any fuel included in the bulk transfer/terminal system, or a container of any kind, including railroad tank cars and truck or trailer cargo tanks, of tax-paid motor vehicle fuel, as well as the tax-paid motor vehicle fuel purchased from and invoiced by the seller prior to April 1, 2009, and in transit on that date.~~

~~(4) "Tax-paid motor vehicle fuel" means the gallons of motor vehicle fuel acquired on either a temperature-corrected or volumetric basis on which the tax in Section 7360 has been imposed at the time of, or prior to acquisition by, the blender, wholesaler, or retailer.~~

~~(5) "Wholesaler" means any person who sells motor vehicle fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the motor vehicle fuel.~~

~~SEC. 7. Section 7653.1 is added to the Revenue and Taxation Code, to read:~~

~~7653.1. Each person subject to the storage tax imposed under Section 7361.1 shall, on or before May 31, 2009, prepare and file with the board, on a form prescribed by the board, a return showing the total number of gallons of tax-paid motor vehicle fuel owned by the person on April 1, 2009, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the Controller in the amount of tax due.~~

~~SEC. 8.~~

*SEC. 4.* Section 10752 of the Revenue and Taxation Code is amended to read:

10752. (a) The annual amount of the license fee for any vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code or a commercial motor vehicle described in Section 9400.1 of the Vehicle Code, or a trailer coach that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be a sum equal to the following percentage of the market value of the vehicle as determined by the department:

(1) Sixty-five hundredths of 1 percent on and after January 1, 2005, and before May 19, 2009.

(2) One percent on and after May 19, 2009.

(b) The annual amount of the license fee for any commercial vehicle as described in Section 9400.1 of the Vehicle Code, shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(c) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, attributable to that portion of the rate imposed pursuant to this section in excess of 0.65 percent shall be deposited into the General Fund.

(d) This section shall cease to be operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case the section shall cease to be operative on July 1, 2013.

~~SEC. 9.~~

*SEC. 5.* Section 10752 is added to the Revenue and Taxation Code, to read:

10752. (a) The annual amount of the license fee for any vehicle, other than a trailer or semitrailer, as described in subdivision (a) of Section 5014.1 of the Vehicle Code, or a trailer coach that is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(b) This section shall become operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall become operative on July 1, 2013.

~~SEC. 10.~~

*SEC. 6.* Section 10752.1 of the Revenue and Taxation Code is amended to read:

10752.1. (a) The annual amount of the license fee for a trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code shall be a sum equal to the following percentage of the market value of the vehicle as determined by the department:

(1) Sixty-five hundredths of 1 percent on and after January 1, 2005, and before May 19, 2009.

(2) One percent on and after May 19, 2009.

(b) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, attributable to that portion of the rate imposed pursuant to this section in excess of 0.65 percent shall be deposited in the General Fund.

(c) This section shall cease to be operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2013.

~~SEC. 11.~~

*SEC. 7.* Section 10752.1 is added to the Revenue and Taxation Code, to read:

10752.1. (a) The annual amount of the license fee for a trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code shall be a sum equal to 0.65 percent of the market value of the vehicle as determined by the department.

(b) This section shall become operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall become operative on July 1, 2013.

~~SEC. 12.~~

*SEC. 8.* Section 10752.2 is added to the Revenue and Taxation Code, to read:

10752.2. (a) On and after May 19, 2009, in addition to the annual license fee for a vehicle, other than a commercial motor vehicle described in Section 9400.1 of the Vehicle Code, imposed pursuant to Sections 10752 and 10752.1, a sum equal to 0.15 percent of the market value of the vehicle as determined by the department, shall be added to that annual fee.

(b) Notwithstanding Chapter 5 (commencing with Section 11001) or any other law to the contrary, all revenues (including penalties), less refunds, derived from fees collected pursuant to subdivision (a) shall be deposited in the General Fund and transferred to the Local Safety and Protection Account, which is hereby established in the Transportation Tax Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the account are hereby continuously appropriated, without regard to fiscal year, to the Controller for allocation pursuant to Sections 29553, 30061, and 30070 of the Government Code, Section 13821 of the Penal Code, and Sections 18220 and 18220.1 of the Welfare and Institutions Code.

(c) (1) In 2010 and each calendar year thereafter, the Director of Finance shall, no later than January 10 and upon the enactment of the Budget Act during the calendar year, make a written determination of whether any of the moneys derived from fees collected pursuant to subdivision (a) are being allocated by the state for any purpose not authorized by subdivision (b), and shall immediately submit his or her written determination to all of the following:

(A) The Director of the Department of Motor Vehicles.

(B) The Joint Legislative Budget Committee.

(C) The Senate and Assembly Appropriations Committees.

(D) The Senate and Assembly Revenue and Taxation Committees.

(2) If the Director of Finance determines that any moneys derived from fees collected pursuant to subdivision (a) are being allocated by the state for a purpose not authorized by subdivision (b), the Director of the Department of Motor Vehicles shall, upon receipt of the written determination, immediately cease collection of the fees imposed by subdivision (a), and shall resume collection of those fees only upon his or her receipt of written determination provided under paragraph (1) that specifies that none of the moneys derived from fees collected pursuant to subdivision (a) are being allocated by the state for a purpose not authorized by subdivision (a).

(d) This section shall cease to be operative on July 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2013.

~~SEC. 13. Section 17044 is added to the Revenue and Taxation Code, to read:~~

~~17044. (a) For each taxable year beginning on or after January 1, 2009, and before January 1, 2013, in addition to any other taxes imposed by this part, an additional tax shall be imposed at the rate of 5 percent on the total tax for the taxable year.~~

~~(b) (1) For purposes of this section, "total tax" means the tax imposed by this part, less any credit allowed under Chapter 2 (commencing with Section 17041), other than the Child and Dependent Care Credit allowed under Section 17052.6.~~

~~(2) For purposes of applying Part 10.2 (commencing with Section 18401) of Division 2, the tax imposed under this section shall be treated as if imposed under Section 17041.~~

~~(c) The tax imposed under this section shall not be further reduced by any credits otherwise allowable under Chapter 2 (commencing with Section 17041), other than the Child and Dependent Care Credit allowed under Section 17052.6.~~

~~(d) This section shall cease to be operative on December 1, 2011, for taxable years beginning before January 1, 2011, unless the Director of the Department of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on December 1, 2013.~~

~~(e) This section shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code.~~

~~SEC. 14. Section 17044 is added to the Revenue and Taxation Code, to read:~~

~~17044. (a) For each taxable year beginning on or after January 1, 2009, and before January 1, 2013, in addition to any other taxes imposed by this part, an additional tax shall be imposed at the rate of 2.5 percent on the total tax for the taxable year.~~

~~(b) (1) For purposes of this section, "total tax" means the tax imposed by this part, less any credit allowed under Chapter 2 (commencing with Section 17041), other than the Child and Dependent Care Credit allowed under Section 17052.6.~~

~~(2) For purposes of applying Part 10.2 (commencing with Section 18401) of Division 2, the tax imposed under this section shall be treated as if imposed under Section 17041.~~

~~(c) The tax imposed under this section shall not be further reduced by any credits otherwise allowable under Chapter 2~~

~~(commencing with Section 17041), other than the Child and Dependent Care Credit allowed under Section 17052.6.~~

~~(d) This section shall cease to be operative on December 1, 2011, for taxable years beginning before January 1, 2011, unless the Department of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on December 1, 2013.~~

~~(e) This section shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code.~~

*SEC. 9. Section 17041 of the Revenue and Taxation Code is amended to read:*

17041. (a) *(1)* There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

| If the taxable income is: | The tax is: |
|---|---|
| Not over $3,650 | 1% of the taxable income |
| Over $3,650 but not over $8,650 | $36.50 plus 2% of the excess over $3,650 |
| Over $8,650 but not over $13,650 | $136.50 plus 4% of the excess over $8,650 |
| Over $13,650 but not over $18,950 | $336.50 plus 6% of the excess over $13,650 |
| Over $18,950 but not over $23,950 | $654.50 plus 8% of the excess over $18,950 |
| Over $23,950 | $1,054.50 plus 9.3% of the excess over $23,950 |

*(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.*

*(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.*

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) *(1)* There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

| If the taxable income is: | The tax is: |
| --- | --- |
| Not over $7,300 | 1% of the taxable income |
| Over $7,300 but not over $17,300 | $73 plus 2% of the excess over $7,300 |
| Over $17,300 but not over $22,300 | $273 plus 4% of the excess over $17,300 |
| Over $22,300 but not over $27,600 | $473 plus 6% of the excess over $22,300 |
| Over $27,600 but not over $32,600 | $791 plus 8% of the excess over $27,600 |
| Over $32,600 | $1,191 plus 9.3% of the excess over $32,600 |

*(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.*

*(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.*

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1(g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this part, the term "taxable income of a nonresident or part-year resident" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident.

(3) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction

was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

~~SEC. 15.~~

*SEC. 10.* Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals, the following credits for personal exemption may be deducted from the tax imposed under Section 17041 or 17048, less any increases imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(a) In the case of a single individual, a head of household, or a married individual making a separate return, a credit of fifty-two dollars ($52).

(b) In the case of a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of one hundred four dollars ($104). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) In addition to any other credit provided in this section, in the case of an individual who is 65 years of age or over by the end of the taxable year, a credit of fifty-two dollars ($52).

(d) (1) A credit of two hundred twenty-seven dollars ($227) for each dependent (as defined in Section 17056) for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to additional exemption for dependents. The credit allowed under this subdivision for taxable years beginning on or after January 1, 1999, shall not be adjusted pursuant to subdivision (i) for any taxable year beginning before January 1, 2000.

(2) The credit allowed under paragraph (1) may not be denied on the basis that the identification number of the dependent, as defined in Section 17056, for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to additional exemption for dependents, is not included on the return claiming the credit.

(3) (A) For taxable years beginning on or after January 1, 2009, the credit allowed under paragraph (1) for each dependent shall be equal to the credit allowed under subdivision (a). This

subparagraph shall cease to be operative on January 1, 2011, unless the Director ~~of the Department~~ of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative on January 1, 2013.

(B) Commencing on the date that subparagraph (A) ceases to be operative, the credit allowed under paragraph (1) for each dependent shall be equal to the amount that would be allowed if subparagraph (A) had never been operative.

(e) A credit for personal exemption of fifty-two dollars ($52) for the taxpayer if he or she is blind at the end of his or her taxable year.

(f) A credit for personal exemption of fifty-two dollars ($52) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(g) For the purposes of this section, an individual is blind only if either (1) his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or (2) his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(h) In the case of an individual with respect to whom a credit under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to that individual for that individual's taxable year is zero.

(i) For each taxable year beginning on or after January 1, 1989, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding taxable year credits by the inflation adjustment factor

determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

*SEC. 11. Section 17062 of the Revenue and Taxation Code is amended to read:*

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, *and before January 1, 2009,* 7 percent.

*(iii) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, 7.25 percent. This clause shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This clause shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification*

*pursuant to Section 99040 of the Government Code, in which case this clause shall cease to be operative for taxable years beginning on or after January 1, 2013.*

*(iv) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, 7.125 percent. This clause shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This clause shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this clause shall cease to be operative for taxable years beginning on or after January 1, 2013.*

*(v) For any taxable year beginning on or after January 1, 2011, or January 1, 2013, as applicable, for which clause (iii) or (iv) ceases to be operative, 7 percent.*

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term "alternative minimum taxable income of a nonresident or part-year resident" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing "alternative minimum taxable income of a nonresident or part-year resident," any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, "qualified taxpayer" means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer's proportionate interest in each trade or business.

(B) For purposes of this paragraph, "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of pass-through entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, "gross receipts, less returns and allowances" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(D) For purposes of this paragraph, "proportionate interest" means:

(i) In the case of a pass-through entity that reports a profit for the taxable year, the taxpayer's profit interest in the entity at the end of the taxpayer's taxable year.

(ii) In the case of a pass-through entity that reports a loss for the taxable year, the taxpayer's loss interest in the entity at the end of the taxpayer's taxable year.

(iii) In the case of a pass-through entity that is sold or liquidates during the taxable year, the taxpayer's capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, "proportionate interest" includes an interest in a pass-through entity.

(ii) For purposes of this paragraph, "pass-through entity" means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An "S corporation," as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24872.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars ($57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars ($42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars ($28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to the phaseout of exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the

following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars ($214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars ($161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).

(C) One hundred seven thousand three hundred sixty-two dollars ($107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar ($1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

~~SEC. 16. Section 60050.2 is added to the Revenue and Taxation Code, to read:~~

~~60050.2. (a) On and after April 1, 2009, in addition to any other tax, a tax of twelve cents ($0.12) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.~~

~~(b) This section shall cease to be operative on July 1, 2011, unless the Director of the Department of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2013.~~

~~SEC. 17. Section 60050.3 is added to the Revenue and Taxation Code, to read:~~

~~60050.3. For purposes of California law, all references to the tax imposed pursuant to Section 60050 shall also include the tax imposed pursuant to Section 60050.2.~~

~~SEC. 18. Section 60050.4 is added to the Revenue and Taxation Code, to read:~~

~~60050.4. (a) For the privilege of storing for the purpose of sale, each blender, wholesaler, and retailer owning 1,000 gallons or more of tax-paid diesel fuel on April 1, 2009, shall pay a tax of twelve cents ($0.12) on each gallon of tax-paid diesel fuel in storage according to the volumetric measure thereof.~~

~~(b) For purposes of this section, the following terms have the following meanings:~~

~~(1) "Owning" means having title to the diesel fuel.~~

~~(2) "Retailer" means any person who sells diesel fuel in this state to a person who subsequently uses the diesel fuel.~~

~~(3) "Storing" includes the possession in a storage facility, except any fuel included in the bulk transfer/terminal system, or a container of any kind, including railroad tank cars and truck or trailer cargo tanks, of tax-paid diesel fuel, as well as the tax-paid diesel fuel purchased from and invoiced by the seller prior to April 1, 2009, and in transit on that date.~~

~~(4) "Tax-paid diesel fuel" means the gallons of diesel fuel acquired on either a temperature-corrected or volumetric basis on which the tax in Section 60050 has been imposed at the time of, or prior to acquisition by, the blender, wholesaler, or retailer.~~

~~(5) "Wholesaler" means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the diesel fuel.~~

~~SEC. 19. Section 60201.4 is added to the Revenue and Taxation Code, to read:~~

~~60201.4. Each person subject to the storage tax imposed under Section 60050.3 shall, on or before May 31, 2009, prepare and file with the board, on a form prescribed by the board, a return showing the total number of gallons of tax-paid diesel fuel owned by the person on April 1, 2009, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.~~

~~SEC. 20. Section 163 of the Streets and Highways Code is amended to read:~~

~~163. (a) The Legislature, through the enactment of this section, intends to establish a policy for the use of all transportation funds that are available to the state, including the State Highway Account,~~

~~the Public Transportation Account, and federal funds. For the purposes of this section, “federal funds” means any obligational authority to be provided under annual federal transportation appropriations acts. The department and the commission shall prepare fund estimates pursuant to Sections 14524 and 14525 of the Government Code based on the following:~~

~~(1) Annual expenditures for the administration of the department shall be the same as the most recent Budget Act, adjusted for inflation.~~

~~(2) Annual expenditures for the maintenance and operation of the state highway system shall be the same as the most recent Budget Act, adjusted for inflation and inventory, or, when a maintenance plan has been enacted pursuant to Section 164.6, maintenance expenditures shall be based on planned expenditures in that plan.~~

~~(3) Annual expenditure for the rehabilitation of the state highway system shall be the same as the most recent Budget Act, or, when a long-range rehabilitation plan has been enacted pursuant to Section 164.6, shall be based on planned expenditures in that long-range plan.~~

~~(4) Annual expenditures for local assistance shall be the amount required to fund local assistance programs required by state or federal law or regulations, including, but not limited to, railroad grade crossing maintenance, bicycle transportation account, congestion mitigation and air quality, regional surface transportation programs, local highway bridge replacement and rehabilitation, local seismic retrofit, local hazard elimination and safety, and local emergency relief.~~

~~(b) (1) In fiscal years 2008-09 and 2009-10 combined, up to 90 percent of revenues deposited in the State Highway Account pursuant to Section 2108 that are derived from Sections 7360.1, 7361.1, 60050.2, and 60050.4 of the Revenue and Taxation Code may be used for the purposes of Section 5 of Article XIX of the California Constitution. In subsequent fiscal years, no more than one-half of those revenues may be used in each fiscal year for that purpose. Annual expenditures shall be based on the Budget Act or a long-range debt service schedule provided by the Department of Finance.~~

~~(2) If the funds appropriated in the Budget Acts of 2008 and 2009 for prior year debt service from the funds described in~~

~~paragraph (1) are not used for that purpose, those funds may not be used for any other purpose than offsetting the costs of current debt service on transportation bonds approved by the voters prior to January 1, 2009 and will be retained in the Transportation Debt Service Fund created by Section 16965 of the Government Code until used for that purpose.~~

~~(c) After deducting expenditures for administration, operation, maintenance, local assistance, safety, and rehabilitation pursuant to subdivision (a), and for expenditures pursuant to Section 164.56, and debt service under subdivision (b), the remaining funds shall be available for capital improvement projects to be programmed in the state transportation improvement program.~~

~~SEC. 21. Section 164 of the Streets and Highways Code is amended to read:~~

~~164. (a) Funds made available for transportation capital improvement projects under subdivision (c) of Section 163 shall be programmed and expended for the following program categories:~~

~~(1) Twenty-five percent for interregional improvements.~~

~~(2) Seventy-five percent for regional improvements.~~

~~(b) Sixty percent of the funds available for interregional improvements under paragraph (1) of subdivision (a) shall be programmed and expended for improvements to state highways that are specified in Sections 164.10 to 164.20, inclusive, and that are outside the boundaries of an urbanized area with a population of more than 50,000, and for intercity rail improvements.~~

~~(c) Not less than 15 percent of the amount of funds programmed under subdivision (b) shall be programmed for intercity rail improvement projects, including separation of grade projects.~~

~~(d) Funds made available under paragraph (1) of subdivision (a) shall be used for transportation improvement projects that are needed to facilitate interregional movement of people and goods. The projects may include state highway, intercity passenger rail, mass transit guideway, or grade separation projects.~~

~~(e) Funds made available under paragraph (2) of subdivision (a) shall be used for transportation improvement projects that are needed to improve transportation within the region. The projects may include, but shall not be limited to, improving state highways, local roads, public transit, intercity rail, pedestrian, and bicycle facilities, and grade separation, transportation system management,~~

~~transportation demand management, soundwall projects, intermodal facilities, safety, and providing funds to match federal funds.~~

~~SEC. 22.~~

*SEC. 12.* This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

~~SEC. 23.~~

*SEC. 13.* 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to properly address the current fiscal emergency, it is necessary that this act go into immediate effect.

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