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California State Senate

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Agenda

March 22, 2010
1 p.m.
Room 4203

AB 183 – Assembly Member Caballero – Income tax credit: qualified principle residence.

AB 186 – Committee on Budget – Sales and use taxes: motor vehicle fuel tax: diesel fuel tax.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Denise Moreno Ducheny, Chair

Bill No:	AB 183
Author:	Caballero
As Amended:	March 18, 2010
Consultant:	Keely Martin Bosler
Fiscal:	Yes
Hearing Date:	March 22, 2010

Subject: Income tax credit: qualified principle residence.

Summary: This bill authorizes a \$10,000 income tax credit (or 5 percent of the purchase price if that amount is lower) for taxpayers purchasing qualified homes between May 1, 2010 and December 31, 2010, or any taxpayer who purchases a qualified home on and after December 31, 2010, and before August 1, 2011, pursuant to an enforceable contract executed on or before December 31, 2010. Qualified homes must be the principle residence of the taxpayer to be eligible for the tax credit. The bill allocates \$100 million in credits for the taxpayers purchasing previously unoccupied homes and \$100 million in credits for first-time homebuyers purchasing existing homes.

Background: In 2009 the Legislature passed and the Governor signed Chapter 11x2, Statutes of 2009 (SBx2 15, Ashburn), that authorized a \$10,000 tax credit (or 5 percent of the purchase price if that amount is lower) for taxpayers purchasing qualified homes after March 1, 2009 and before March 1, 2010. The legislation allocated \$100 million in credits for previously unoccupied homes that serve as the taxpayer's principle residence. The Franchise Tax Board allocated all of the available credits by July 2, 2009, on a first-come, first-served basis.

Proposed Law: This bill would reauthorize the tax credit authorized by Chapter 11x2, Statutes of 2009, to provide an additional \$100 million in credits for taxpayers purchasing previously unoccupied homes between May 1, 2010 and December 31, 2010, or any taxpayer who purchases a qualified home on and after December 31, 2010, and before August 1, 2011, pursuant to an enforceable contract executed on or before December 31, 2010. The bill would also authorize an additional \$100 million in credits for first-time homebuyers purchasing existing homes in the same time frames. First-time homebuyers are defined as taxpayers who have not had an ownership interest in a home in the last three years. The taxpayer must occupy the qualified home as their principle residence to be eligible for the tax credit under either program.

Taxpayers who received a credit under Chapter 11x2 are not eligible for this credit. Additionally, the bill precludes persons under the age of 18 from claiming the credit, unless the person is married to someone over the age of 18, and also prevents taxpayers who are related to the seller and individuals who are claimed as dependents by another taxpayer from claiming the credit.

The bill requires the taxpayer to submit to the Franchise Tax Board a properly executed settlement statement. This bill also requires the submission to the Franchise Tax Board a certification by the seller that the home has never been occupied or a certification from the taxpayer that he or she is a first-time home buyer. The bill allows taxpayers to reserve a credit prior to the close of escrow. The buyer and seller must jointly sign and submit to the Franchise Tax Board a certification that they have entered into an enforceable contract on and after May 1, 2010, and before December 31, 2010.

The Franchise Tax Board allocates the credits on a first-come first-served basis. This bill directs the Franchise Tax Board to estimate that taxpayers, on average, will offset tax liability equal to 70 percent of the credit for previously unoccupied homes. This is based on a sampling of tax returns from taxpayers awarded the credits allocated by Chapter 11x2. The bill also directs the Franchise Tax Board to estimate that taxpayers, on average, will offset tax liability equal to 57 percent of the value of the credit for first-time homebuyers purchasing an existing home. These estimates will allow the Franchise Tax Board to allocate more than 10,000 credits for each program to reach the full \$200 million in credits allocated by this bill. The taxpayer must apply the credit in equal amounts over the next three tax years.

This bill also requires the Franchise Tax Board to establish a wait list of taxpayers based on the date that the certifications and reservations were received once the tax credits for previously unoccupied homes are exhausted. The Franchise Tax Board shall notify these taxpayers before December 31, 2011, whether they have been allocated a credit.

Fiscal Effect: According to the Franchise Tax Board, this bill results in revenue losses of \$200 million General Fund to the State. The revenue losses are expected to be distributed as follows: \$6 million in 2009-10, \$69 million in 2010-11, \$67 million in 2011-12, \$54 million 2012-13, and \$4 million in 2013-14.

Support: California Building Industry Association (supported similar legislation contained in SB 6x 4 (Ashburn)).

Opposed: None available.

Comments: There are no studies on the specific impacts of the 2009 tax credit. However, the author of the 2009 tax credit claims that the credit encouraged reluctant homebuyers to return to the market and new home sales started to rise again. The author also claims that the 2009 tax credit encouraged new home construction which generates jobs and other economic benefits.

Homeownership is clearly a public goal under the existing tax structure. Homeownership tax subsidies that already exist include: (1) the mortgage loan interest deductions, which according to the Department of Finance will result in more than \$5.4 billion in foregone revenue in 2009-10; (2) the capital gains exclusion, which the Department of Finance estimates will result in more than \$3.7 billion in foregone revenue in 2009-10; (3) the deductibility of property tax from federal income; and (4) the approximately \$6.6 billion in other federal tax credits made available as part of the federal economic stimulus package to encourage homeownership.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Denise Moreno Ducheny, Chair

Bill No:	AB 186
Author:	Committee on Budget
As Amended:	March 18, 2010
Consultant:	Brian Annis
Fiscal:	Yes
Hearing Date:	March 22, 2010

Subject: Fuel tax swap.

Summary: This bill re-enacts the revenue provisions of the fuel swap with new amendments to recognize special users of fuel, such as purchasers of diesel fuel for rail or other off-road use. On March 4, the Legislature approved AB X8 6, which is a revenue-neutral tax swap bill that lowered certain fuel taxes and raised others. For the typical consumer, there would be no change to fuel prices paid at the pump. However, certain fuel users enjoy tax breaks in current law, and due to these existing tax breaks, they would see a net increase in taxes under AB X8 6. This bill revises the tax provisions such that special users, such as railroads and purchasers of aviation gasoline, will not be adversely affected. This bill also makes other technical and clarifying changes requested by the Board of Equalization.

Background: Under current law, certain fuel consumers are exempt from excise taxes, others pay a reduced excise rate, and others are exempt from sales tax. Included are the following three groups:

- Users of “dyed diesel fuel” – the excise tax on diesel fuel is intended for users of the highways system and excludes from the tax those that purchase fuel for off-road use. This would include diesel purchased for railroads, off-road construction equipment, farm equipment, etc.
- School buses and transit buses – the excise tax on diesel fuel for these vehicles is only one cent per gallon (versus the base rate of 18 cents per gallon).
- Users of aviation gasoline – aviation gasoline is defined in statute as “motor vehicle fuel” along with regular gasoline. Aviation gasoline is exempt from the sales tax, but pays the excise tax.

This bill would revise the tax provisions, so that the special fuel users would not see any negative tax impact. For example, the users of dyed diesel fuel would be exempt from the increase in the sales tax on diesel fuel, since they would not receive the compensating benefit of a reduction in the excise tax (because they are already exempt from the excise tax).

Proposed Law: This bill reenacts the provisions of AB X8 6 and would make further amendments related to special fuel users. The description below includes both the base provisions of AB X8 6 and the new provisions.

1. **Tax Swap:** This bill lowers certain taxes and increases others, such that on net there is a small tax decrease annually through 2011-12. Thereafter, this bill is revenue neutral. Specifically, this bill:
 - Exempts gasoline from the State 6.0 percent sales tax on July 1, 2010, which by itself would reduce tax revenue by \$2.5 billion in 2010-11.
 - Increases the excise tax on gasoline by 17.3 cents on July 1, 2010, which by itself would increase revenue by \$2.5 billion in 2010-11. In 2011-12 and thereafter, the Board of Equalization (BOE) would adjust the excise rate to match what the sales tax on gasoline

would otherwise provide. The BOE is also required to adjust the rate for any over, or under, collection of revenue in the prior fiscal year – this “true-up” mechanism ensures revenue neutrality will be maintained. Aviation gasoline is exempted from the excise tax increase, because that fuel is already exempted from the sales tax, and therefore users would not see a compensating tax cut on the sales tax side. The aviation gasoline exemption reduces 2010-11 revenue by about \$6 million, but will not have an ongoing affect due to the true-up mechanism for BOE that will adjust the excise rate in the future.

- Increases the State sales tax on diesel on July 1, 2011, from 5.0 percent to 6.75 percent to increase revenue for the Public Transportation Account by about \$115 million (the total State sales tax on diesel will increase to about \$430 million). Dyed-diesel fuel, which is purchased for off-road purposes (by railroads, agricultural users, etc.), is exempted from the sales tax increase because that fuel is already exempted from the excise tax, and therefore users would not see a compensating tax cut on the excise tax side. Had dyed-diesel users been subject to the sales tax increase, their net tax obligation would have increased about \$30 million. Also exempted from the sales tax increase is fuel purchased for school buses and transit buses. Exempting those purchases lowers revenue by about \$3 million.
 - Decreases the excise tax on diesel on July 1, 2011, from 18 cents per gallon to 13.6 cents per gallon, which decreases revenue for the Highway Users Tax Account by about \$120 million. In 2012-13 and thereafter, the Board of Equalization would adjust the excise rate to keep the decrease in the excise revenue equal to the increase in the sales tax revenue. The BOE is also required to adjust the rate for any over, or under, collection of revenue in the prior fiscal year – this “true-up” mechanism ensures revenue neutrality will be maintained.
2. **Protects Proposition 98 Education Funding:** Specifies that the tax changes in the bill would have no net fiscal impact upon the amounts that would otherwise be calculated under Test 1 of the Proposition 98 guarantee.
 3. **Tax Levy:** This bill is a tax levy within the meaning of Article IV of the Constitution and would go into immediate effect. However, the changes in tax rates would still be effective July 1, 2010, or July 1, 2011, as specified.
 4. **Board of Equalization Technical Amendments:** This bill includes technical changes to the language of AB X8 6 due to technical concerns of the Board of Equalization (BOE). These include conforming language on the existing prepayment requirements for the sales tax, and clarification that the annual adjustments to the excise tax rates would occur at the beginning of the state fiscal year.

Related provisions in AB X8 9: AB X8 9 was approved by the Legislature on March 4, and contains the expenditure provisions on the fuel swap. Since both bills are necessary to fully enact the swap package, the components of AB X8 9 are outlined here:

1. **Transit Funding:** This bill would appropriate \$400 million to transit operators to help fund operations for the remainder of 2009-10 and for 2010-11. In 2011-12, the diesel fuel swap provides for growth in both transit operations and intercity rail. Transit operators will get about \$350 million in 2011-12, and a growing amount thereafter, via receipt of 75 percent of the state sales tax on diesel. The amount available for intercity rail and other state purposes will grow, via receipt of 25 percent of the state sales tax on gas and most of the non-Article XIX transportation funds (about \$72 million per year).

2. **Highway and Road Funding:** This bill would increase funding for highways and local roads. In 2010-11, this bill would fully backfill for the highway and local road funding lost due to the elimination of the sales tax on gas. An additional \$650 million in 2010-11 gas excise tax funds would be set aside in this bill for future appropriation by the Legislature. In 2011-12 and thereafter, the excise tax revenue would provide additional funding for highways and roads. After the payment of debt service, the highway and road funding would be split: 44 percent for the State Transportation Improvement Program (STIP); 12 percent for the State Highway Operations and Protection Program (SHOPP); and 44 percent for local streets and roads. This bill would provide net new revenue to highways and roads of about \$420 million in 2011-12, with new revenue over ten years of about \$3 billion.
5. **General Fund Relief:** This bill, when combined with AB 8X 6, produces General Fund relief of \$219 million in 2009-10, \$929 million in 2010-11, and ongoing GF relief of about \$700 million and growing in the out years. The General Fund relief by year is as follows:
- **In 2009-10:**
 - a) Directs \$140 million in PTA funds to reimburse the General Fund for eligible debt service on general-obligation bonds (specifically, Proposition 108 of 1990 bonds, Proposition 1A of 2008, and one-quarter of Proposition 1B of 2006 bonds).
 - b) Directs \$79 million in non-Article XIX transportation funds to reimburse the General Fund for Prop 116 of 1990 bonds.
 - **In 2010-11:**
 - a) Directs \$254 million in PTA funds to reimburse the General Fund for eligible debt service on general-obligation bonds.
 - b) Directs \$72 million in non-Article XIX transportation funds to reimburse the General Fund for Prop 116 bonds.
 - c) Directs \$603 million in new gasoline excise tax revenue to reimburse the General Fund for Proposition 192 of 1996 bonds, and three-quarters of Proposition 1B of 2006 bonds.
 - **In 2011-12 and thereafter:**
 - a) Directs \$727 million (and varying amounts over time) in new gasoline excise tax revenue to reimburse the General Fund for Proposition 192 of 1996 bonds, and three-quarters of Proposition 1B of 2006 bonds.

Fiscal Effect: This bill would result in the following overall revenue impact.

Revenue Impact of Tax Swap (contained in this measure, AB 186)

(Estimates in millions)

	2010-11	2011-12	2012-13	2013-14
Eliminate Sales Tax on Gasoline	-\$2,531	-\$2,435	-\$2,369	-\$2,525
Increase Excise Tax on Gasoline	\$2,511	\$2,435	\$2,369	\$2,525
Increase the Sales Tax on Diesel	0	114	118	125
Decrease the Excise Tax on Diesel	0	-118	-118	-125
Net change in revenues:	-20	-4	0	0

Expenditure Highlights of Tax Swap (contained in the companion bill, AB X8 9)

(Estimates in millions)

	2010-11	2011-12	2012-13	2013-14
Transit Operations via STA*	\$400	\$348	\$348	\$354
Intercity Rail and other State Operations	162	157	171	190
Net new Highway and Road	0	417	251	208

* 2010-11 funding amount is that appropriated in 2009-10 by this bill.

Support: Unknown.

Opposed: Unknown.

Comments: This bill is similar to the Governor's Budget Proposal, but has been modified to provide additional funding for transit and highways. The amendments in this bill, relative to the language in AB X8 6, are designed to address concerns raised by railroads and other industry groups that they would see a net tax increase due to existing tax breaks not being fully factored into the language. With the amendments in this bill, the tax changes are not only revenue-neutral overall, but are also revenue neutral for each of the special industry groups.

AMENDED IN SENATE MARCH 18, 2010

AMENDED IN SENATE SEPTEMBER 4, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 183

Introduced by Committee on Budget (Evans (Chair), Arambula, Beall, Blumenfield, Brownley, Caballero, Carter, De La Torre, Feuer, Hill, Huffman, Monning, Ruskin, and Swanson) Assembly Member Caballero

(Principal coauthor: Senator Ashburn)

February 2, 2009

An act to amend Section 13311.1 of, and to amend, repeal, and add Section 5924 of, the Government Code, to amend Section 2103.1 of the Streets and Highways Code, to add Section 12104 to the Welfare and Institutions Code, and to amend Section 39 of Chapter 12 of the Statutes of 2009 of the Third Extraordinary Session, relating to state finances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. *An act to add and repeal Section 17059.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 183, as amended, Committee on Budget Caballero. *Budget Act of 2009–Income tax credit: qualified principal residence.*

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit against those taxes in an amount equal to the lesser of 5% of the purchase price of a qualified principal residence, as defined, or \$10,000, for purchases made between

March 1, 2009, and before March 1, 2010, subject to specified restrictions.

This bill would authorize a credit against those taxes in an amount equal to the lesser of 5% of the purchase price of a qualified principal residence, as defined, or \$10,000, for purchases made between May 1, 2010, and on or before December 31, 2010, or on or after December 31, 2010, and before August 1, 2011, subject to specified restrictions, including the submission of a certification to the Franchise Tax Board by either the taxpayer or seller, made under the penalty of perjury, that the residence has either never been occupied or that the taxpayer is a first-time home buyer.

This bill would limit the total amount of credits to \$200,000,000 and would require that the aggregate limitation of \$100,000,000 in credits for the purchase of qualified principal residences that have never been occupied be reduced by 70% of the credit amount allocated under each certification by the Franchise Tax Board, and would require that the aggregate limitation of \$100,000,000 in credits for the purchase of a qualified principal residence by first-time home buyers be reduced by 57% of the credit amount allocated under each certification by the Franchise Tax Board.

By expanding the definition of an existing crime, this bill imposes a state-mandated local program.

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

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

This bill would take effect immediately as a tax levy.

~~(1) Existing law sets forth the duties and authority of the Treasurer generally in the sale of state bonds. Money is continuously appropriated from the General Fund in an annual amount necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement entered into by the state, as specified, for bonds payable pursuant to an appropriation from the General Fund. Existing law prohibits the amount appropriated for these fees, costs, and other similar expenses from exceeding a percentage of the original principal amount of the bonds that is specified in the federal Internal Revenue Code.~~

This bill would, until June 30, 2013, instead increase that percentage by which those expenses are calculated to 3%, thereby making an appropriation.

(2) Existing law authorizes the Director of Finance to defer payments of General Fund moneys in July through September of 2009, in an amount not to exceed \$750,000,000, appropriated to the University of California in the Budget Act of 2009, as specified. Existing law also authorizes the director to defer payments of General Fund moneys in July 2009, in an amount not to exceed \$290,000,000, appropriated to the California State University in the Budget Act of 2009, as specified. Existing law specifies the schedule of payments for these deferred amounts.

This bill would additionally authorize the director to defer payments of General Fund moneys owed in February 2010, in an amount not to exceed \$250,000,000, appropriated to the University of California in the Budget Act of 2009. The bill also would authorize the director to defer payments of General Fund moneys owed in February 2010 in an amount not to exceed \$250,000,000, and owed in March 2010 in an amount not to exceed \$150,000,000, appropriated to the California State University in the Budget Act of 2009, as specified. The bill would specify a schedule of payments for these deferred amounts.

(3) Existing law defers, until October 2009, the disbursal of payments of General Fund moneys for July 2009, in an amount not to exceed \$200,000,000, appropriated to the Board of Governors of the California Community Colleges for apportionments to community college districts.

This bill would additionally defer, until May 2010, the disbursal of payments of General Fund moneys for March 2010, in an amount not to exceed \$100,000,000, appropriated to the board for apportionments to community college districts.

(4) Existing law requires state excise fuel tax revenues to be deposited in various accounts and to be allocated, in part, for various purposes, including the cost of collection and authorized refunds. Existing law requires the balance of these funds remaining after authorized deductions to be transferred to, and deposited monthly in, the Highway Users Tax Account in the Transportation Tax Fund. Existing law provides for annual and monthly apportionment by the Controller of specified revenues in the Highway Users Tax Account to cities, counties, and cities and counties for the transportation purposes authorized by Article XIX of the California Constitution. Existing law, pursuant to Chapter 23 of the Fourth Extraordinary Session of the Statutes of 2009, requires

transfers of those revenues from the Highway Users Tax Account to counties or cities that would otherwise be made during certain months of 2009 to instead be deferred and made after January 1, 2010.

This bill would instead provide for the apportionments for the months of July and August of 2009 to cities, counties, and cities and counties to be paid in September 2009, and apportionments for November and December of 2009 and January, February, and March of 2010 to be paid on or within 2 working days of April 28, 2010, with specified exceptions. The bill would also authorize the affected local agencies to use specified transportation bond funds and other available funds to meet certain cash obligations.

(5) Existing law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to, on behalf of the state, make combined state and federal payments to SSP recipients to supplement Supplemental Security Income (SSI) payments made available pursuant to the federal Social Security Act.

Existing law provides that the contract with the United States Secretary of Health and Human Services requires the state to pay the secretary an amount equal to expenditures made by the secretary as supplemental payments to SSP recipients less amounts payable by the federal government.

This bill would, upon the order of the Director of Finance, require the Director of Social Services to defer the above-described payments to the federal government in February 2010, and March 2010, and, instead, make payments for those months after April 20, 2010, but no later than May 31, 2010.

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

Vote: $\frac{2}{3}$ -majority. Appropriation: yes-no. Fiscal committee: yes. State-mandated local program: no-yes.

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

1 *SECTION 1. Section 17059.1 is added to the Revenue and
2 Taxation Code, to read:*

3 *17059.1. (a) (1) In the case of any taxpayer who purchases
4 a qualified principal residence on and after May 1, 2010, and on
5 or before December 31, 2010, or any taxpayer who purchases a*

1 qualified principal residence on and after December 31, 2010,
2 and before August 1, 2011, pursuant to an enforceable contract
3 executed on or before December 31, 2010, there shall be allowed
4 as a credit against the “net tax,” as defined in Section 17039, an
5 amount equal to the lesser of 5 percent of the purchase price of
6 the qualified principal residence or ten thousand dollars (\$10,000).

7 (2) The amount of any credit allowed under paragraph (1) shall
8 be applied in equal amounts over the three successive taxable
9 years beginning with the taxable year in which the purchase of
10 the qualified principal residence is made.

11 (3) The credit under this section shall be allowed for the
12 purchase of only one qualified principal residence with respect to
13 any taxpayer.

14 (4) A qualified principal residence is purchased on the date on
15 which escrow closes with respect to the purchase of the qualified
16 principal residence.

17 (b) For purposes of this section:

18 (1) “Qualified principal residence” means a single-family
19 residence, whether detached or attached, that is purchased to be
20 the principal residence of the taxpayer, is eligible for the
21 homeowner’s exemption under Section 218, and has either never
22 been occupied or is purchased by a first-time home buyer.

23 (2) “First-time home buyer” means any individual, or
24 individual’s spouse, who had no present ownership interest in a
25 principal residence during the preceding three-year period ending
26 on the date of the purchase of the qualified principal residence.

27 (c) (1) (A) A taxpayer may, but is not required to, reserve a
28 credit prior to close of escrow for the purchase of a qualified
29 principal residence that has never been occupied. To reserve a
30 credit, the taxpayer and seller shall jointly sign and submit to the
31 Franchise Tax Board a certification that they have entered into
32 an enforceable contract on or after May 1, 2010, and on or before
33 December 31, 2010. Upon receipt of the joint certification, the
34 Franchise Tax Board shall notify the taxpayer that the board has
35 reserved the credit for the taxpayer, pending receipt, within two
36 weeks after the close of escrow, of the information required under
37 paragraph (2) for a qualified principal residence that has never
38 been occupied.

1 (B) The reservation of a credit shall be canceled if a taxpayer
2 does not provide either the information required under paragraph
3 (2) or a notification of cancellation before August 16, 2011.

4 (2) No credit shall be allowed under this section unless the
5 taxpayer submits to the Franchise Tax Board, within two weeks
6 after the date of the purchase of the qualified principal residence,
7 a copy of the properly executed settlement statement and either
8 one of the following:

9 (A) If the qualified principal residence has never been occupied,
10 a certification by the seller, made under penalty of perjury, that
11 the residence has never been previously occupied.

12 (B) If the qualified principal residence is purchased by a
13 taxpayer who is a first-time home buyer, a certification from the
14 taxpayer, made under penalty of perjury, that he or she is a
15 first-time home buyer.

16 (d) If the taxpayer does not occupy the qualified principal
17 residence as his or her principal residence for at least two years
18 immediately following the purchase, any remaining unapplied
19 credit shall be canceled and any previously applied credit shall
20 be recaptured, and the taxpayer shall be liable for any increase
21 in tax attributable to the recapture of any credit previously allowed
22 under this section.

23 (e) (1) In the case of two married taxpayers filing separately,
24 the credit allowed under subdivision (a) shall be equally
25 apportioned between the two taxpayers.

26 (2) If two or more taxpayers who are not married purchase a
27 qualified principal residence, the amount of the credit allowed
28 under subdivision (a) shall be allocated among the taxpayers in
29 the same manner as each taxpayer's percentage of ownership,
30 except that the total amount of the credits allowed to all of these
31 taxpayers shall not exceed an amount equal to the lesser of 5
32 percent of the purchase price of the qualified principal residence
33 or ten thousand dollars (\$10,000).

34 (f) (1) The total amount of credit that may be allocated pursuant
35 to this section shall not exceed one hundred million dollars
36 (\$100,000,000) for the purchase of qualified principal residences
37 that have never been occupied and one hundred million dollars
38 (\$100,000,000) for the purchase of qualified principal residences
39 by first-time home buyers.

1 (A) For each certification or reservation received from a
2 taxpayer for the purchase of a qualified principal residence that
3 has never been occupied, the total amount of credit available for
4 allocation shall be reduced by an amount equal to 70 percent of
5 the amount of the credit for the purchase of a qualified principal
6 residence that has never been occupied.

7 (B) For each certification received from a taxpayer for the
8 purchase of a qualified principal residence by a first-time home
9 buyer, the total amount of credit available for allocation shall be
10 reduced by an amount equal to 57 percent of the amount of the
11 credit for the purchase of a qualified principal residence by a
12 first-time home buyer.

13 (2) Once the credits allocated for qualified principal residences
14 that have never been occupied exceed the limit established in
15 subparagraph (A) of paragraph (1), the Franchise Tax Board shall
16 establish a wait list for subsequently received certifications or
17 reservations, with an order of priority based on the date
18 certification or reservation was received by the Franchise Tax
19 Board. The Franchise Tax Board shall notify taxpayers on the wait
20 list no later than December 31, 2011, as to whether they have been
21 allocated a credit and the amount allocated.

22 (3) In the case where a taxpayer is both a first-time home buyer,
23 as described in paragraph (2) of subdivision (b), and the purchaser
24 of a qualified principal residence that has never been occupied,
25 the Franchise Tax Board shall allocate that taxpayer their credit
26 amount from the one hundred million dollars (\$100,000,000) for
27 qualified principal residences that have never been occupied.

28 (g) (1) Upon receipt of the information described in subdivision
29 (c), the Franchise Tax Board shall allocate the credit to the
30 taxpayer on a first-come-first-served basis.

31 (2) (A) Except as provided in subparagraph (B), the taxpayer
32 shall claim the credit on a timely filed original return.

33 (B) Taxpayers on the wait list, as described in paragraph (2)
34 of subdivision (f), that are allocated a credit for a qualified
35 principal residence that was purchased in the 2010 taxable year
36 may claim the credit on an amended income tax return for that
37 taxable year.

38 (3) The date the information described in subdivision (c) is
39 received shall be determined by the Franchise Tax Board.

1 (4) (A) *The determinations of the Franchise Tax Board with
2 respect to the date the information described in subdivision (c) is
3 received, the allocation and reservation of credit, and whether a
4 return has been timely filed for purposes of this subdivision, may
5 not be reviewed in any administrative or judicial proceeding.*

6 (B) *Any disallowance of a credit claimed due to a determination
7 under this subdivision, including the application of the limitation
8 specified in subdivision (f), shall be treated as a mathematical
9 error appearing on the return. Any amount of tax resulting from
10 that disallowance may be assessed by the Franchise Tax Board in
11 the same manner as provided by Section 19051.*

12 (h) *The Franchise Tax Board may prescribe rules, guidelines,
13 or procedures necessary or appropriate to carry out the purposes
14 of this section, including any guidelines regarding the allocation
15 of the credit allowed under this section. Chapter 3.5 (commencing
16 with Section 11340) of Part 1 of Division 3 of Title 2 of the
17 Government Code does not apply to any rule, guideline, or
18 procedure prescribed by the Franchise Tax Board pursuant to this
19 section.*

20 (i) *The credit allowed by this section is not a business credit
21 within the meaning of Section 17039.2.*

22 (j) *No credit shall be allowed under this section if any of the
23 following apply:*

24 (1) *The taxpayer was allowed a credit under Section 17059.*

25 (2) *The taxpayer is not 18 years of age or older as of the date
26 of purchase. A taxpayer who is married at the date of purchase
27 shall be considered to be 18 years of age if the spouse of the
28 taxpayer is 18 years of age or older on the date of purchase.*

29 (3) *The taxpayer or the taxpayer's spouse, if the taxpayer is
30 married, is related to the seller within the meaning of Section 267
31 of the Internal Revenue Code, related to losses, expenses, and
32 interest with respect to transactions between related taxpayers.*

33 (4) *The taxpayer qualifies as a dependent, as defined in Section
34 17056, of any other taxpayer for the taxable year of the purchase.*

35 (k) *This section shall remain in effect only until December 1,
36 2014, and as of that date is repealed.*

37 SEC. 2. *No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIIIIB of the California*
5 *Constitution.*

6 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
7 ~~Article IV of the Constitution and shall go into immediate effect.~~

8
9
10 **All matter omitted in this version of the bill**
11 **appears in the bill as amended in the**
12 **Senate, September 4, 2009. (JR11)**
13

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AMENDED IN SENATE MARCH 18, 2010

AMENDED IN SENATE SEPTEMBER 4, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 186

Introduced by Committee on Budget (Evans (Chair), Arambula, Beall, Blumenfield, Brownley, Caballero, Carter, De La Torre, Feuer, Hill, Huffman, Monning, Ruskin, and Swanson)

February 2, 2009

An act to repeal and add Sections 12472.5 and 13302 of, and to repeal, add, and repeal Section 22864.1 of, the Government Code, relating to state employees. An act to add Section 41204.2 to the Education Code, and to amend Sections 6480.1, 7360, and 60050 of, and to add Sections 6051.8, 6201.8, 6357.3, 6357.7, 7361.1, and 7653.1 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 186, as amended, Committee on Budget. State employees: payroll: health care. Sales and use taxes: motor vehicle fuel tax: diesel fuel tax.

(1) Existing law requires the Director of Finance to make certain adjustments in one of the formulas used in computing the state's obligation under the California Constitution to provide funding for school districts and community college districts so as to ensure that the modifications in property tax revenue allocation requirements that were made by prior enactments do not have a net fiscal impact on school districts or community college districts, or upon the state's funding obligation to those districts.

This bill would additionally specify adjustments on the calculation of the state's constitutional funding obligations that are related to the change in taxes made by this bill.

(2) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Tangible personal property includes motor vehicle fuel, commonly referred to as gasoline, and including aviation gasoline. Existing law, pursuant to Article XIXB of the California Constitution, requires a portion of the revenues from the sales and use tax on the sale of, and the storage, use, or other consumption of, motor vehicle fuel to be deposited in the Transportation Investment Fund to be used for specified highway, local street and road, and mass transportation purposes.

The Sales and Use Tax Law requires a collection of prepayment of retail sales tax at the time that motor vehicle fuel tax or diesel fuel tax is imposed, and on each subsequent sale other than the retail sale. This law requires the State Board of Equalization to establish the prepayment rate based on 80% of the combined state and local sales tax rate, as prescribed. This law authorizes the board to readjust the rate if the price of fuel decreases or increases and the established rate results in prepayments which consistently exceed or are significantly lower than the retailer's sales tax liability.

This bill would, on and after July 1, 2010, exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, motor vehicle fuel thereby eliminating funding from this revenue source for those transportation programs. This exemption would not apply to local sales and use taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law or transactions and use taxes imposed in accordance with the Transactions and Use Tax Law, and specified state sales and use taxes.

This bill, on or after July 1, 2011, would impose an additional 1.75% tax on the sale of, and the storage, use, or other consumption in this state of, diesel fuel, with specified exemptions.

This bill would also authorize the State Board of Equalization to readjust the prepayment rate if an exemption from sales tax for sales of fuel, as specified, is enacted and the established rate results in or could result in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability.

(3) *The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law each impose a tax at the rate of \$0.18 per gallon on the removal, entry, sale, delivery, or specified use of motor vehicle fuel, which is commonly referred to as gasoline, including aviation gasoline, and diesel fuel, respectively, and the Motor Vehicle Fuel Tax Law also imposes a tax at the rate of \$0.02 per gallon of aircraft jet fuel sold to a fuel user or used by a dealer. Article XIX of the California Constitution requires state-imposed excise tax revenues from fuel used in motor vehicles upon public streets and highways to be used solely for highway and mass transit guideway purposes.*

This bill would increase the rate of tax on motor vehicle fuel, other than aviation gasoline, by an additional \$0.173 per gallon on and after July 1, 2010, as specified. The bill would impose a floor stock tax equal to \$0.173 per gallon for the privilege of storing motor vehicle fuel, other than aviation gasoline, on July 1, 2010. Beginning with the 2011–12 fiscal year, and each fiscal year thereafter, the bill would require the State Board of Equalization to annually adjust that fuel tax rate consistent with the requirement that the estimated revenues from that tax increase shall not exceed the estimated revenues attributable to the exemption from sales and use tax for the sale of, or the storage, use, or other consumption of, motor vehicle fuel, other than aviation gasoline, as provided. This bill would clarify that the rate changes to achieve revenue neutrality would be effective for the next fiscal year.

This bill would, on July 1, 2011, reduce the rate of tax on diesel fuel from \$0.18 per gallon to \$0.136 per gallon, subject to adjustment, as specified.

(4) *This bill would take effect immediately as a tax levy.*

(1) ~~Existing law requires that, on and after January 1, 2010, payments to employees made through the Uniform State Payroll System for a pay period ending on June 30 of each year shall be on or after July 1, provided that employees, in any event, be paid promptly.~~

~~This bill would require that, on and after January 1, 2010, payments to employees made through the Uniform State Payroll System for a master payroll paid on June 30 of each year shall be issued dated on July 1.~~

(2) ~~Existing law requires the Department of Finance to install and supervise an accounting system for state agencies. Existing law requires, in regard to this system, that the payments to employees made in July through the Uniform State Payroll System for services rendered prior~~

to July 1 of each year are to be considered payables incurred in the fiscal year in which the warrant is issued.

This bill would provide that payments to employees made through the Uniform State Payroll System, as specified, with an issue date each year of July 1 shall be considered payables incurred in the fiscal year in which the payment is issued dated.

(3) Existing law authorizes the Board of Administration of the Public Employees' Retirement System to use reserves generated by one or more self-funded health benefit plans to reduce the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board, as specified.

This bill would make technical changes to that authorization.

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

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

1 SECTION 1. Section 41204.2 is added to the Education Code,
2 to read:

3 41204.2. The Director of Finance shall adjust "the percentage
4 of General Fund revenues appropriated for school districts and
5 community college districts, respectively, in fiscal year 1986–87"
6 for purposes of applying paragraph (1) of subdivision (b) of Section
7 8 of Article XVI of the California Constitution in a manner that
8 ensures that the shift in General Fund revenues pursuant to
9 Sections 6051.8, 6201.8, 6357.3, 6357.7, and 7361.1, subdivision
10 (b) of Section 7360, and subdivision (b) of Section 60050 of the
11 Revenue and Taxation Code, as those provisions were enacted in
12 the 2009–10 Eighth Extraordinary Session, shall have no net fiscal
13 impact upon the amounts that are otherwise required to be applied
14 by the state for the support of school districts and community
15 college districts pursuant to Section 8 of Article XVI of the
16 California Constitution.

17 SEC. 2. Section 6051.8 is added to the Revenue and Taxation
18 Code, to read:

19 6051.8. (a) Except as provided in Section 6357.3, in addition
20 to the taxes imposed by this part, for the privilege of selling
21 tangible personal property at retail a tax is hereby imposed upon
22 all retailers at the rate of 1.75 percent of the gross receipts of any
23 retailer from the sale of all diesel fuel, as defined in Section 60022,

1 *sold at retail in this state on and after the operative date of this*
2 *subdivision.*

3 (b) *Subdivision (a) shall become operative on July 1, 2011.*

4 SEC. 3. *Section 6201.8 is added to the Revenue and Taxation*
5 *Code, to read:*

6 6201.8. (a) *Except as provided in Section 6357.3, in addition*
7 *to the taxes imposed by this part, an excise tax is hereby imposed*
8 *on the storage, use, or other consumption in the state of diesel*
9 *fuel, as defined in Section 60022, at the rate of 1.75 percent of the*
10 *sales price of the diesel fuel on and after the operative date of this*
11 *subdivision.*

12 (b) *Subdivision (a) shall become operative on July 1, 2011.*

13 SEC. 4. *Section 6357.3 is added to the Revenue and Taxation*
14 *Code, to read:*

15 6357.3. (a) *On and after July 1, 2011, there are exempted*
16 *from the taxes imposed by Sections 6051.8 and 6201.8, the gross*
17 *receipts from the sale in this state of, and the storage, use, or other*
18 *consumption in this state of both of the following:*

19 (1) *Diesel fuel purchased for use or used in a manner that is*
20 *exempt from the tax imposed pursuant to Part 31 (commencing*
21 *with Section 60001) of Division 2 and not subject to the backup*
22 *tax imposed by Section 60058 or the payment requirement specified*
23 *in Section 60108.*

24 (2) *Diesel fuel subject to the payment requirement specified in*
25 *Section 60502.2.*

26 (b) *No exemption from the tax imposed pursuant to Sections*
27 *6051.8 and 6201.8 shall be allowed under this section unless the*
28 *purchaser furnishes the seller with an exemption certificate,*
29 *completed in accordance with any instructions or regulations as*
30 *the board may prescribe.*

31 (c) *If a purchaser certifies in writing to the seller that the diesel*
32 *fuel purchased without payment of the tax imposed pursuant to*
33 *Sections 6051.8 or 6201.8 will be used in a manner entitling the*
34 *seller to regard the gross receipts or sales price from the sale as*
35 *exempt from that tax, and uses the diesel fuel in a manner that*
36 *subjects the diesel fuel to the tax imposed pursuant to Section*
37 *60050, the purchaser shall be liable for payment of the sales tax*
38 *imposed pursuant to Section 6051.8, with applicable interest, as*
39 *if the purchaser were a retailer making a retail sale of the diesel*
40 *fuel at the time the fuel is so used, and the sales price of the diesel*

1 fuel to the purchaser shall be deemed the gross receipts from that
2 retail sale.

3 SEC. 5. Section 6357.7 is added to the Revenue and Taxation
4 Code, to read:

5 6357.7. (a) On and after July 1, 2010, there are exempted
6 from the taxes imposed by this part, the gross receipts from the
7 sale in this state of, and the storage, use, or other consumption in
8 this state of, motor vehicle fuel, as defined in Section 7326.

9 (b) (1) Notwithstanding any provision of the Bradley-Burns
10 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
11 with Section 7200)) or the Transactions and Use Tax Law (Part
12 1.6 (commencing with Section 7251)), the exemption established
13 by this section shall not apply with respect to any tax levied by a
14 county, city, or district pursuant to, or in accordance with, either
15 of those laws.

16 (2) The exemption established by this section shall not apply
17 with respect to any tax levied pursuant to Section 6051.2, 6051.5,
18 6201.2, or 6201.5, or pursuant to Section 35 of Article XIII of the
19 California Constitution.

20 (c) On and after July 1, 2010, the State Board of Equalization
21 and the Department of Finance shall recognize that the state no
22 longer receives state sales and use tax revenues from the sale of,
23 and the storage, use, or other consumption of, motor vehicle fuel
24 for purposes of any estimates required to be performed under
25 paragraphs (1) and (2) of subdivision (a) of Section 7102, and
26 Section 7104.2.

27 SEC. 6. Section 6480.1 of the Revenue and Taxation Code is
28 amended to read:

29 6480.1. (a) At any time that motor vehicle fuel tax or diesel
30 fuel tax is imposed or would be imposed, but for the dyed diesel
31 fuel exemption in paragraph (1) of subdivision (a) of Section
32 60100, or the train operator exemption in paragraph (7) of
33 subdivision (a) of Section 60100 or paragraph (11) of subdivision
34 (a) of Section 7401, or, pursuant to subdivision (f) of Section 6480,
35 would be deemed to be imposed, on any removal, entry, or sale in
36 this state of motor vehicle fuel, aircraft jet fuel, or diesel fuel, the
37 supplier shall collect prepayment of retail sales tax from the person
38 to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is
39 sold. However, if no sale occurs at the time of imposition of motor
40 vehicle fuel tax or diesel fuel tax, the supplier shall prepay the

1 retail sales tax on that motor vehicle fuel, aircraft jet fuel, or diesel
2 fuel. The prepayment required to be collected by the supplier
3 constitutes a debt owed by the supplier to this state until paid to
4 the board, until satisfactory proof has been submitted to prove that
5 the retailer of the fuel has paid the retail sales tax to the board, or
6 until a supplier or wholesaler who has consumed the fuel has paid
7 the use tax to the board. Each supplier shall report and pay the
8 prepayment amounts to the board, in a form as prescribed by the
9 board, in the period in which the fuel is sold. On each subsequent
10 sale of that fuel, each seller, other than the retailer, shall collect
11 from his or her purchaser a prepayment computed using the rate
12 applicable at the time of sale. Each supplier shall provide his or
13 her purchaser with an invoice for, or other evidence of, the
14 collection of the prepayment amounts which shall be separately
15 stated thereon.

16 (b) (1) A wholesaler shall collect prepayment of the retail sales
17 tax from the person to whom the motor vehicle fuel, aircraft jet
18 fuel, or diesel fuel is sold. Each wholesaler shall provide his or
19 her purchaser with an invoice for or other evidence of the collection
20 of the prepayment amounts, which shall be separately stated
21 thereon.

22 (2) Each wholesaler shall report to the board, in a form as
23 prescribed by the board and for the period in which the motor
24 vehicle fuel, aircraft jet fuel, or diesel fuel was sold, all of the
25 following:

26 (A) The number of gallons of fuel sold and the amount of sales
27 tax prepayments collected by the wholesaler.

28 (B) The number of tax-paid gallons purchased and the amount
29 of sales tax prepayments made by the wholesaler.

30 (C) In the event that the amount of sales tax prepayments
31 collected by the wholesaler is greater than the amount of sales tax
32 prepayments made by the wholesaler, then the excess constitutes
33 a debt owed by the wholesaler to the state until paid to the board,
34 or until satisfactory proof has been submitted that the retailer of
35 the fuel has paid the tax to the board.

36 (c) A supplier or wholesaler who pays the prepayment and issues
37 a resale certificate to the seller, but subsequently consumes the
38 motor vehicle fuel, aircraft jet fuel, or diesel fuel, shall be entitled
39 to a credit against his or her sales and use taxes due and payable
40 for the period in which the prepayment was made, provided that

1 he or she reports and pays the use tax to the board on the
2 consumption of that fuel.

3 (d) The amount of a prepayment paid by the retailer or a supplier
4 or wholesaler who has consumed the motor vehicle fuel, aircraft
5 jet fuel, or diesel fuel to the seller from whom he or she acquired
6 the fuel shall constitute a credit against his or her sales and use
7 taxes due and payable for the period in which the sale was made.
8 Failure of the supplier or wholesaler to report prepayments or the
9 supplier's or wholesaler's failure to comply with any other duty
10 under this article shall not constitute grounds for denial of the
11 credit to the retailer, supplier, or wholesaler, either on a temporary
12 or permanent basis or otherwise. To be entitled to the credit, the
13 retailer, supplier, or wholesaler shall retain for inspection by the
14 board any receipts, invoices, or other documents showing the
15 amount of sales tax prepaid to his or her supplier, together with
16 the evidence of payment.

17 (e) The rate of the prepayment required to be collected during
18 the period from July 1, 1986, through March 31, 1987, shall be
19 four cents (\$0.04) per gallon of motor vehicle fuel distributed or
20 transferred.

21 (f) On April 1 of each succeeding year, the prepayment rate per
22 gallon for motor vehicle fuel, rounded to the nearest one-half of
23 one cent (\$0.005), of the required prepayment shall be established
24 by the board based upon 80 percent of the combined state and local
25 sales tax rate established by Sections 6051, 6051.2, 6051.3, 6051.5,
26 7202, and 7203.1, and Section 35 of Article XIII of the California
27 Constitution on the arithmetic average selling price (excluding
28 sales tax) as determined by the State Energy Resources
29 Conservation and Development Commission, in its latest
30 publication of the "Quarterly Oil Report," of all grades of gasoline
31 sold through a self-service gasoline station. In the event the
32 "Quarterly Oil Report" is delayed or discontinued, the board may
33 base its determination on other sources of the arithmetic average
34 selling price of gasoline. The board shall make its determination
35 of the rate no later than November 1 of the year prior to the
36 effective date of the new rate. Immediately upon making its
37 determination and setting of the rate, the board shall each year, no
38 later than January 1, notify by mail every supplier, wholesaler,
39 and retailer of motor vehicle fuel. In the event the price of fuel
40 decreases or increases *or an exemption from sales tax for sales of*

1 *fuel is enacted*, and the established rate results in *or could result*
2 *in prepayments which consistently exceed or are significantly*
3 *lower than the retailers' sales tax liability*, the board may readjust
4 *the rate*.

5 (g) On April 1 of each succeeding year, the prepayment rate per
6 gallon for aircraft jet fuel, rounded to the nearest one-half of one
7 cent (\$0.005), shall be established by the board based upon 80
8 percent of the combined state and local sales tax rate established
9 by Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1, and
10 Section 35 of Article XIII of the California Constitution on the
11 arithmetic average selling price (excluding sales and state excise
12 tax) as determined by the board. The board shall make its
13 determination of the rate no later than November 1 of the year
14 prior to the effective date of the new rate. The rate of the
15 prepayment required to be collected for aircraft jet fuel shall be
16 equal to 80 percent of the arithmetic average selling price of aircraft
17 jet fuel as specified by industry publications. Immediately upon
18 making its determination and setting of the rate, the board shall
19 each year, no later than January 1, notify by mail every supplier,
20 wholesaler, and retailer of aircraft jet fuel. In the event the price
21 of aircraft jet fuel decreases or increases, and the established rate
22 results in prepayments that consistently exceed or are significantly
23 lower than the retailers' sales tax liability, the board may readjust
24 the rate.

25 (h) On April 1 of each succeeding year, the prepayment rate per
26 gallon for diesel fuel, rounded to the nearest one-half of one cent
27 (\$0.005), shall be established by the board based upon 80 percent
28 of the combined state and local sales tax rate established by
29 Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1, and
30 Section 35 of Article XIII of the California Constitution on the
31 arithmetic average selling price (excluding sales and state excise
32 tax) as determined by the board. The board shall make its
33 determination of the rate no later than November 1 of the year
34 prior to the effective date of the new rate. The rate of the
35 prepayment required to be collected for diesel fuel shall be equal
36 to 80 percent of the arithmetic average selling price of diesel fuel
37 as specified by industry publications. Immediately upon making
38 its determination and setting of the rate, the board shall each year,
39 no later than January 1, notify by mail every supplier, wholesaler,
40 and retailer of diesel fuel. In the event the *rate of sales tax imposed*

1 *on sales of diesel fuel increases or decreases or the* price of diesel
2 *fuel decreases or increases, and the established rate results in or*
3 *could result in* prepayments that consistently exceed or are
4 *significantly lower than the retailers' sales tax liability, the board*
5 *may readjust the rate.*

6 (i) (1) Notwithstanding any other provision of this section,
7 motor vehicle fuel sold by a supplier or wholesaler to a qualified
8 purchaser who, pursuant to a contract with the State of California
9 or its instrumentalities, resells that fuel to the State of California
10 or its instrumentalities shall be exempt from the prepayment
11 requirements.

12 (2) A qualified purchaser who acquires motor vehicle fuel for
13 subsequent resale to the State of California or its instrumentalities
14 pursuant to this subdivision shall furnish to the supplier or
15 wholesaler from whom the fuel is acquired an exemption
16 certificate, completed in accordance with any instructions or
17 regulations as the board may prescribe. The supplier or wholesaler
18 shall retain the certificate in his or her records in support of the
19 exemption. To qualify for the prepayment exemption, both of the
20 following conditions shall apply:

21 (A) The qualified purchaser does not take possession of the fuel
22 at any time.

23 (B) The fuel is delivered into storage tanks owned or leased by
24 the State of California or its instrumentalities via facilities of the
25 supplier or wholesaler, or by common or contract carriers under
26 contract with the supplier or wholesaler.

27 (3) For purposes of this subdivision, "qualified purchaser" means
28 a wholesaler who does not have or maintain a storage facility or
29 facilities for the purpose of selling motor vehicle fuel.

30 *SEC. 7. Section 7360 of the Revenue and Taxation Code is
31 amended to read:*

32 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
33 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
34 and 7364.

35 (b)

36 (2) If the federal fuel tax is reduced below the rate of nine cents
37 (\$0.09) per gallon and federal financial allocations to this state for
38 highway and exclusive public mass transit guideway purposes are
39 reduced or eliminated correspondingly, the tax rate imposed by
40 this section, paragraph (1), on and after the date of the reduction,

1 shall be recalculated by an amount so that the combined state *rate*
2 *under paragraph (1)* and the federal tax rate per gallon equals
3 *equal* twenty-seven cents (\$0.27).

4 (e)

5 (3) If any person or entity is exempt or partially exempt from
6 the federal fuel tax at the time of a reduction, the person or entity
7 shall continue to be so exempt under this section.

8 (b) (1) *On and after July 1, 2010, in addition to the tax imposed*
9 *by subdivision (a), a tax is hereby imposed upon each gallon of*
10 *motor vehicle fuel, other than aviation gasoline, subject to the tax*
11 *in Sections 7362, 7363, and 7364 in an amount equal to seventeen*
12 *and three-tenths cents (\$0.173) per gallon.*

13 (2) *For the 2011–12 fiscal year and each fiscal year thereafter,*
14 *the board shall, on or before March 1 of the fiscal year immediately*
15 *preceding the applicable fiscal year, adjust the rate in paragraph*
16 *(1) in that manner as to generate an amount of revenue that will*
17 *equal the amount of revenue loss attributable to the exemption*
18 *provided by Section 6357.7, based on estimates made by the board,*
19 *and that rate shall be effective during the state's next fiscal year.*

20 (3) *In order to maintain revenue neutrality for each year,*
21 *beginning with the rate adjustment on or before March 1, 2012,*
22 *the adjustment under paragraph (2) shall also take into account*
23 *the extent to which the actual amount of revenues derived pursuant*
24 *to this subdivision and, as applicable, Section 7361.1, the revenue*
25 *loss attributable to the exemption provided by Section 6357.7*
26 *resulted in a net revenue gain or loss for the fiscal year ending*
27 *prior to the rate adjustment date on or before March 1.*

28 (4) *The intent of paragraphs (2) and (3) is to ensure that the*
29 *act adding this subdivision and Section 6357.7 does not produce*
30 *a net revenue gain in state taxes.*

31 SEC. 8. Section 7361.1 is added to the Revenue and Taxation
32 Code, to read:

33 7361.1. (a) *For the privilege of storing for the purpose of sale,*
34 *each supplier, wholesaler, and retailer owning 1,000 or more*
35 *gallons of tax-paid motor vehicle fuel, other than aviation gasoline,*
36 *on July 1, 2010, shall pay a storage tax of seventeen and*
37 *three-tenths cents (\$0.173) per gallon of tax-paid motor vehicle*
38 *fuel, other than aviation gasoline, in storage according to the*
39 *volumetric measure thereof.*

40 (b) *For purposes of this section:*

1 (1) "Owning" means having title to the motor vehicle fuel, other
2 than aviation gasoline.

3 (2) "Retailer" means any person who sells motor vehicle fuel,
4 other than aviation gasoline, in this state to a person who
5 subsequently uses the motor vehicle fuel, other than aviation
6 gasoline.

7 (3) "Storing" includes the ownership or possession of tax-paid
8 motor vehicle fuel, other than aviation gasoline, outside of the
9 bulk transfer/terminal system, including the holding of tax-paid
10 motor vehicle fuel, other than aviation gasoline, for sale at
11 wholesale or retail locations stored in a container of any kind,
12 including railroad tank cars and trucks or trailer cargo tanks.
13 "Storing" also includes tax-paid motor vehicle fuel, other than
14 aviation gasoline, purchased from and invoiced by the seller, and
15 tax-paid motor vehicle fuel, other than aviation gasoline, removed
16 from a terminal or entered into by a supplier, prior to the date
17 specified in subdivision (a) and in transit on that date.

18 (4) "Wholesaler" means any person who sells motor vehicle
19 fuel, other than aviation gasoline, in this state for resale to a
20 retailer or to a person who is not a retailer and subsequently uses
21 the motor vehicle fuel, other than aviation gasoline.

22 SEC. 9. Section 7653.1 is added to the Revenue and Taxation
23 Code, to read:

24 7653.1. On or before August 31, 2010, each person subject to
25 the storage tax imposed under Section 7361.1 shall prepare and
26 file with the board, in a form prescribed by the board, a return
27 showing the total number of gallons of tax-paid motor vehicle fuel,
28 other than aviation gasoline, owned by the person on July 1, 2010,
29 the amount of the storage tax, and any other information that the
30 board deems necessary for the proper administration of this part.
31 The return shall be accompanied by a remittance payable to the
32 Controller in the amount of tax due.

33 SEC. 10. Section 60050 of the Revenue and Taxation Code is
34 amended to read:

35 60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby
36 imposed upon each gallon of diesel fuel subject to the tax in
37 Sections 60051, 60052, and 60058.

38 (b)

39 (2) If the federal fuel tax is reduced below the rate of fifteen
40 cents (\$0.15) per gallon and federal financial allocations to this

1 state for highway and exclusive public mass transit guideway
2 purposes are reduced or eliminated correspondingly, the tax rate
3 imposed by this section, paragraph (1), *including any reduction*
4 *or adjustment pursuant to subdivision (b)*, on and after the date of
5 the reduction, shall be increased by an amount so that the combined
6 state rate under paragraph (1) and the federal tax rate per gallon
7 equals thirty-three cents (\$0.33) equal what it would have been in
8 the absence of the federal reduction.

9 (e)

10 (3) If any person or entity is exempt or partially exempt from
11 the federal fuel tax at the time of a reduction, the person or entity
12 shall continue to be exempt under this section.

13 (b) (1) *On July 1, 2011, the tax rate specified in paragraph (1)*
14 *of subdivision (a) shall be reduced to thirteen and six-tenths cents*
15 *(\$0.136) and every July 1 thereafter shall be adjusted pursuant to*
16 *paragraphs (2) and (3).*

17 (2) *For the 2012–13 fiscal year and each fiscal year thereafter,*
18 *the board shall, on or before March 1 of the fiscal year immediately*
19 *preceding the applicable fiscal year, adjust the rate reduction in*
20 *paragraph (1) in that manner as to result in a revenue loss*
21 *attributable to paragraph (1) that will equal the amount of revenue*
22 *gain attributable to Sections 6051.8 and 6201.8, based on estimates*
23 *made by the board, and that rate shall be effective during the*
24 *state's next fiscal year.*

25 (3) *In order to maintain revenue neutrality for each year,*
26 *beginning with the rate adjustment on or before March 1, 2013,*
27 *the adjustment under paragraph (2) shall take into account the*
28 *extent to which the actual amount of revenues derived pursuant*
29 *to Sections 6051.8 and 6201.8 and the revenue loss attributable*
30 *to this subdivision resulted in a net revenue gain or loss for the*
31 *fiscal year ending prior to the rate adjustment date on or before*
32 *March 1.*

33 (4) *The intent of paragraphs (2) and (3) is to ensure that the*
34 *act adding this subdivision and Sections 6051.8 and 6201.8 does*
35 *not produce a net revenue gain in state taxes.*

36 SEC. 11. This act provides for a tax levy within the meaning
37 of Article IV of the Constitution and shall go into immediate effect.

38 SECTION 1. Section 12472.5 of the Government Code is
39 repealed.

1 SEC. 2. Section 12472.5 is added to the Government Code, to
2 read:

3 12472.5. Notwithstanding any other law, on and after January
4 1, 2010, payments to employees made through the Uniform State
5 Payroll System for master payroll paid on June 30 of each year
6 shall be issue dated on July 1, provided that employees shall, in
7 any event, be paid promptly.

8 SEC. 3. Section 13302 of the Government Code is repealed.

9 SEC. 4. Section 13302 is added to the Government Code, to
10 read:

11 13302. The accounting system devised as provided in Section
12 13300 shall provide, with respect to the General Fund and other
13 governmental funds, for all of the following:

14 (a) The accrual of expenditures as of the end of each fiscal year
15 on the basis of payables incurred, excluding accrued interest on
16 general obligation bonded indebtedness.

17 (b) (1) The accrual of revenues at the end of the fiscal year if
18 the underlying transaction has occurred as of the last day of the
19 fiscal year, the amount is measurable, and the actual collection
20 will occur either during the current period or after the end of the
21 current period but in time to pay current year-end liabilities.

22 (2) Cash in agency trust accounts within the centralized State
23 Treasury system that is in transit to the State Treasury, accrued
24 interest receivable, and accounts receivable shall be accrued as of
25 the end of each fiscal year.

26 (c) For the purposes of financial reporting, all of the following
27 shall apply:

28 (1) A payable exists when goods or services have been delivered
29 and the state is required to pay for those goods or services, and an
30 encumbrance exists when a valid obligation against an
31 appropriation has been created.

32 (2) All funds appropriated shall be identified as either expended,
33 payable, encumbered (exclusive of payables), or unencumbered,
34 as further defined by the California Fiscal Advisory Board, and
35 the total of these shall equal the total appropriation.

36 (d) (1) Notwithstanding any other law, and except as provided
37 in paragraph (2), payments to employees made through the Uniform
38 State Payroll System as described in Section 12472.5 with an issue
39 date each year of July 1 shall be considered payables incurred in
40 the fiscal year in which the payment is issued dated.

1 (2) Notwithstanding paragraph (1), for purposes of calculating
2 maintenance of effort expenditures under Section 8 of Article XVI
3 of the California Constitution, or for purposes of calculating funds
4 used by a program during the fiscal year, payments made on July
5 may be counted towards the prior fiscal year.

6 SEC. 5. Section 22864.1 of the Government Code is repealed.

7 SEC. 6. Section 22864.1 is added to the Government Code, to
8 read:

9 22864.1. (a) This part does not limit the board's authority to
10 use reserves generated by one or more self-funded benefit plans
11 to reduce or otherwise pay the premiums charged for enrollment
12 in one or more separate self-funded health benefit plans that are
13 offered by the board.

14 (b) This section shall remain in effect only until June 30, 2010;
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before June 30, 2010, deletes or extends that date.