

AMENDED IN SENATE FEBRUARY 17, 2021

AMENDED IN SENATE JANUARY 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 80

Introduced by ~~Committee on Budget (Assembly Members Ting (Chair), Arambula, Bennett, Bloom, Carrillo, Chiu, Cooper, Frazier, Cristina Garcia, Jones-Sawyer, Lee, McCarty, Medina, Mullin, Nazarian, O'Donnell, Ramos, Reyes, Luz Rivas, Blanca Rubio, Stone, Weber, and Wood)~~ Assembly Member Burke

December 7, 2020

An act to amend Sections 789.4, 1942.5, and 3273.1 of, to add Sections 1785.20.4, 1788.66, and 1942.9 to, and to add and repeal Section 1788.65 of, the Civil Code, to amend Sections 116.223, 1161.2, 1161.2.5, 1179.01, 1179.02, 1179.03, 1179.03.5, 1179.04, 1179.05, and 1179.07 of, to amend the heading of Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of, to add Section 1179.04.5 to, and to add and repeal Chapter 11 (commencing with Section 871.10) of Title 10 of Part of, the Code of Civil Procedure, to amend Section 925.6 of the Government Code, and to add Chapter 17 (commencing with Section 50897) to Part 2 of Division 31 of the Health and Safety Code, relating to tenancy, and making an appropriation therefor, to take effect immediately, bill related to the budget. *An act to amend Sections 17131.8 and 24308.6 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 80, as amended, ~~Committee on Budget~~ *Burke*. COVID-19 relief: tenancy: federal rental assistance. *Taxation: Coronavirus Aid, Relief,*

and Economic Security Act: Federal Consolidated Appropriations Act, 2021.

The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally define “gross income” as income from whatever source derived, except as specifically excluded, and provide various exclusions from gross income. Existing law, in conformity with the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and its subsequent amendments in the Paycheck Protection Program and Health Care Enhancement Act and the Paycheck Protection Program Flexibility Act of 2020, among other things, excludes any amounts of covered loans forgiven under the CARES Act from gross income for purposes of the Personal Income Tax Law and the Corporation Tax Law. Existing law reduces the amount of any credit or deduction otherwise allowed under the Personal Income Tax and the Corporation Tax Law for any amount paid or incurred by the taxpayer upon which this exclusion is based by the amount of the exclusion allowed. Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

Existing federal law, the Consolidated Appropriations Act, 2021, prohibits reductions in tax deductions, denials of basis adjustments, and reductions in tax attributes for federal income tax purposes based on the exclusion from gross income provided in the federal CARES Act and its subsequent amendments.

This bill would exclude, for taxable years beginning on or after January 1, 2019, from gross income any advance grant amount, as defined, issued pursuant to specified provisions of the CARES Act or the Consolidated Appropriations Act, 2021, and covered loan amounts forgiven pursuant to the Consolidated Appropriations Act, 2021.

This bill would adopt, except as provided, the provisions of the Consolidated Appropriations Act, 2021, prohibiting any reduction in tax deductions, denials of basis adjustments, and reductions in tax attributes based on the exclusion from gross income provided for any loan amount forgiven in modified conformity with the federal CARES Act and its subsequent amendments.

This bill would provide findings to comply with the additional information requirement for any bill authorizing a new tax expenditure.

This bill would also make findings and declarations related to a gift of public funds.

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

~~(1) Existing law prohibits a landlord from interrupting or terminating utility service furnished to a tenant with the intent to terminate the occupancy of the tenant, and imposes specified penalties on a landlord who violates that prohibition. Existing law, until February 1, 2021, imposes additional damages in an amount of at least \$1,000, but not more than \$2,500, on a landlord that violates that prohibition, if the tenant has provided a declaration of COVID-19 financial distress, as specified.~~

~~This bill would extend the imposition of those additional damages from February 1, 2021, to July 1, 2021.~~

~~(2) Existing law, the Consumer Credit Reporting Agencies Act, provides for the regulation of consumer credit reporting agencies that collect credit-related information on consumers and report this information to subscribers and of persons who furnish that information to consumer credit reporting agencies, as provided.~~

~~This bill would prohibit a housing provider, tenant screening company, or other entity that evaluates tenants on behalf of a housing provider from using an alleged COVID-19 rental debt, as defined, as a negative factor for the purpose of evaluating a prospective housing application or as the basis for refusing to rent a dwelling unit to an otherwise qualified prospective tenant.~~

~~(3) Existing law regulates the activities of a person or entity that has bought charged-off consumer debt, as defined, for collection purposes and the circumstances pursuant to which the person may bring suit.~~

~~This bill, until July 1, 2021, would prohibit a person from selling or assigning unpaid COVID-19 rental debt, as defined, for the time period between March 1, 2020, and June 30, 2021. The bill would also prohibit a person from selling or assigning unpaid COVID-19 rental debt, as defined, for that same time period for any person who would have qualified for rental assistance funding, provided pursuant to specified federal law, where the person's household income is at or below 80% of the area median income.~~

~~(4) Existing law, until February 1, 2021, prohibits a landlord from bringing an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt, as defined, for the purpose of retaliating against the lessee because the lessee has COVID-19 rental debt.~~

~~This bill would extend this prohibition from February 1, 2021, to July 1, 2021. This bill would also prohibit a landlord, with respect to a tenant who has COVID-19 rental debt, as defined, and has submitted a specified declaration, from (A) charging or attempting to collect fees assessed for the late payment of COVID-19 rental debt or (B) increasing fees charged to a tenant or charging the tenant fees for services previously provided by the landlord without charge. The bill would also provide that a landlord who temporarily reduces or makes unavailable a service or amenity as the result of compliance with federal, state, or local public health orders or guidelines would not be deemed to have violated the rental or lease agreement, or to have provided different terms or conditions of tenancy or reduced services, as provided.~~

~~(5) Existing law, the COVID-19 Small Landlord and Homeowner Relief Act of 2020, among other things, requires that a mortgage servicer, as defined, that denies a forbearance request during the effective time period provide specified written notice to the borrower, as defined, that sets forth the specific reason or reasons that forbearance was not provided if certain conditions are met. Existing law defines the “effective time period” for these purposes as the period between the operational date of the act and April 1, 2021.~~

~~This bill would, instead, define “effective time period” for these purposes as the period between the operational date of the act and September 1, 2021, thereby extending the duty of a mortgage servicer to provide written notice if the mortgage servicer denies a forbearance request.~~

~~(6) Existing law, until February 1, 2025, provides that a small claims court has jurisdiction in any action for recovery of COVID-19 rental debt, as defined, regardless of the amount demanded. Existing law prohibits the commencement of an action to recover COVID-19 rental debt brought under these provisions before March 1, 2021.~~

~~This bill would extend these provisions from February 1, 2025, to July 1, 2025. The bill would also extend the above-described prohibition on commencing an action in small claims court to recover COVID-19 rental debt to August 1, 2021.~~

~~(7) Existing law provides for civil actions for the enforcement or protection of private rights or prevention of private wrongs. If in an unlawful detainer action the verdict of the jury or the findings of the court, as applicable, are in favor of the plaintiff, existing law requires that judgment be entered for possession of the premises, which is enforceable by a writ of possession of real property issued under~~

specified law. Under existing law, the jury or the court, as applicable, may also award damages to the plaintiff in an unlawful detainer action, including damages for unpaid rent if the alleged unlawful detainer is based on the default in payment of rent.

This bill, until July 1, 2027, and with specified exceptions, would require a plaintiff in an action seeking recovery of COVID-19 rental debt, as defined, to attach to the complaint documentation showing that the plaintiff has made a good faith effort to investigate whether governmental rental assistance is available to the tenant, seek governmental rental assistance for the tenant, or cooperate with the tenant's efforts to obtain rental assistance from any governmental entity or other third party, as provided. The bill would authorize the court to reduce the damages awarded for any amount of COVID-19 rental debt sought if the court determines that the landlord refused to obtain state rental assistance as provided by this bill, as described below, where the tenant met the eligibility requirements and funding was available. The bill would prohibit commencement of an action to recover COVID-19 rental debt subject to these provisions until July 1, 2021, and require that the court stay proceedings in any such action pending as of the operative date of the bill until that date.

The bill, until July 1, 2025, would prohibit a court from awarding attorneys' fees that exceed specified amounts, which vary based on whether the matter is contested or uncontested, in any action to recover COVID-19 rental debt, as defined, brought as a limited or unlimited civil case under normal circumstances, determined as provided.

(8) Under existing law, in certain actions involving the possession of real property, including unlawful detainer actions, the clerk is authorized to allow access to limited civil case records only to certain persons. Under existing law, the clerk may allow access to these records to any person (A) by order of the court, if judgment is entered for the plaintiff after trial more than 60 days after filing the complaint, or (B) 60 days after the complaint has been filed, if the plaintiff prevails in the action within 60 days of filing the complaint. Until February 1, 2021, these provisions allowing access to court records to any person do not apply if the plaintiff filed the action between March 4, 2020, and January 31, 2021, and the action is based on the alleged default in the payment of rent.

This bill would extend this limitation on the access to court records from February 1, 2021, to July 1, 2021. The bill would revise this

limitation to, instead, include actions filed between March 4, 2020, and June 30, 2021, based on the alleged default in the payment of rent.

Subject to the above-described provisions, until February 1, 2021, existing law authorizes the clerk to allow access to civil case records for actions seeking recovery of COVID-19 rental debt, as that term is defined, only to certain persons.

This bill would extend this provision from February 1, 2021, to July 1, 2021.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(9) Existing law, the COVID-19 Tenant Relief Act of 2020, establishes certain procedural requirements and limitations on evictions for nonpayment of rent due to COVID-19 rental debt, as defined. Existing law, among other things, prohibits a tenant that delivers a declaration, under penalty of perjury, of COVID-19-related financial distress from being deemed in default with regard to the COVID-19 rental debt, as specified. Existing law defines COVID-19 rental debt as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and January 31, 2021. Existing law repeals those provisions on February 1, 2025.

This bill would recast these provisions as the COVID-19 Tenant Relief Act and extend the February 1, 2025, repeal date to July 1, 2025. The bill would instead define “COVID-19 rental debt” as unpaid rent or other unpaid financial obligation of a tenant that came due between March 1, 2020, and June 30, 2021. The bill would make various conforming changes to align with these extended dates. By extending operation of those provisions, the bill would expand the scope of the crime of perjury and thereby impose a state-mandated local program. This bill, for the duration of any tenancy that existed between March 1, 2020, and June 30, 2021, would prohibit a landlord from applying a security deposit to satisfy COVID-19 rental debt, or applying a monthly rent payment to any COVID-19 rental debt other than the prospective month’s rent, unless the tenant agrees in writing to allow the landlord to apply that security deposit or monthly rent payment in that manner.

Existing law requires that a notice that demands payment of COVID-19 rental debt served pursuant to specified law be modified;

~~as provided. Existing law requires that notices provided between September 1, 2020, and January 31, 2021, comply with certain requirements, including that the notice include specified text. Existing law requires the Department of Real Estate to make available an official translation of that text by no later than September 15, 2020.~~

~~This bill would extend operation of these requirements from January 31, 2021, to June 30, 2021. The bill, for notices provided on or after February 1, 2021, would revise the content of the text required to be included in the notice. The bill would also extend the duty of the Department of Real Estate to make available an official translation of that text to February 15, 2021.~~

~~Existing law, on or before September 30, 2020, requires a landlord to provide a specified notice to tenants who, as of September 1, 2020, have not paid one or more rental payments that came due between March 1, 2020, and January 31, 2021.~~

~~This bill, on or before February 28, 2021, would require a landlord to provide an additional notice to tenants who, as of February 1, 2021, have not paid one or more rental payments that came due between March 1, 2020, and June 30, 2021. The bill would prohibit a landlord from serving specified notices demanding payment of rent until the landlord has provided this notice.~~

~~(10) Existing law establishes the Department of Housing and Community Development (HCD) and requires it to administer various housing programs. Existing law provides for rental assistance under several of those programs, including, among others, the California Emergency Solutions and Housing Program, the Emergency Housing and Assistance Program, and the Housing for a Healthy California Program. Existing federal law appropriates \$25,000,000,000 for fiscal year 2021–22, to be allocated by the Secretary of the Treasury to states, local governments, and certain Indian tribes and used to provide financial assistance and housing stability services to eligible households, as provided. Existing federal law requires that 90% of the funds received by a grantee under these provisions be used to provide financial assistance to eligible households, including the payment of rent, rental arrears, utilities and home energy costs and arrears, and other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak.~~

~~This bill would establish a program for providing rental assistance, using funding made available pursuant to the above-described federal law, administered by HCD. In this regard, the bill would appropriate~~

~~\$1,500,000,000 from the federal Trust Fund to HCD for these purposes, permitting up to 10% of these funds to be used for administrative costs. The bill would specify eligible uses of funds allocated to grantees under these provisions, consistent with the above-described federal requirements. The bill would provide that assistance provided to an eligible household under these provisions would be deemed to be a “source of income” for purposes of the housing discrimination protections provided under the California Fair Employment and Housing Act, but would otherwise not be deemed to be income for purposes of the Personal Income Tax Law or used to determine the eligibility of an eligible household, or member of an eligible household, for any state program or local program financed wholly or in part by state funds. The bill would authorize HCD to adopt, amend, and repeal rules, guidelines, or procedures to implement these provisions and exempt those rules, guidelines, and procedures from the rulemaking provisions of the Administrative Procedure Act.~~

~~This bill would provide for the allocation of block grant funds to localities, as defined, that meet certain population requirements. The bill would require an eligible grantee under these provisions to request that allocation from HCD by February 12, 2021, and require HCD to complete the initial allocation of these funds no later than February 19, 2021. The bill would further require the grantee to contractually obligate 65% of those funds by June 1, 2021, and to expend the full amount of that allocation by August 1, 2021. If the grantee does not contractually obligate or expend the required amount of allocation by those dates, the bill would require the grantee to repay any unused amount of block grant funds and would require HCD to reallocate those funds, as provided.~~

~~This bill would also provide for the allocation of funds to counties with a population less than or equal to 200,000 and to localities that were eligible for, but did not receive, a direct allocation of assistance under the above-described federal law, or that were eligible for, but did not receive, block grant funds from HCD under this bill’s provisions. The bill would authorize a federally recognized tribe, as defined, that receives rental assistance funds under the above-described federal law to add that direct allocation to the funds administered by HCD, as provided. The bill would authorize HCD to contract with a vendor to serve as program implementer, in accordance with specified requirements, to manage and fund services and distribute emergency rental assistance resources, as provided. The bill would require an~~

eligible grantee to contractually obligate those funds by July 31, 2021, and would, except with respect to any funds administered on behalf of a federally recognized tribe, authorize HCD to reallocate funds not contractually obligated by that date to other grantees that meet certain requirements.

~~This bill, in any legal action to recover rent or other financial obligations under a lease that accrued between April 1, 2020, and June 30, 2021, would require, before any entry of judgment in the plaintiff's favor, that the plaintiff verify certain information, under penalty of perjury, relating to state rental assistance. The bill, in any unlawful detainer action seeking possession of residential rental property based on nonpayment of rent or any other financial obligation under the lease, would similarly prohibit the court from entering judgment in favor of the landlord unless the landlord verifies certain information, under penalty of perjury, relating to state rental assistance. By expanding the scope of the crime of perjury, the bill would impose a state-local program.~~

~~This bill would require each grantee to provide HCD information relating to all applicable performance metrics. The bill would provide that funds provided are subject to the same reporting and verification requirements specified in the above-described federal law and, in addition, require the grantee to provide any other information HCD deems necessary for these purposes. The bill would require that a grantee ensure, to the extent feasible, that any assistance provided to an eligible household is not duplicative of any other state-funded assistance provided to that eligible household.~~

~~(11) Existing law, the Government Claims Act, generally requires the presentation of all claims for money or damages against local public entities. Existing law provides for the presentation of a claim for which appropriations have been made, or for which state funds are available, under that act to the Controller, in the form and manner prescribed by the general rules and regulations adopted by the Department of General Services. Existing law, with specified exceptions, prohibits the Controller from drawing a warrant for any claim until it has been audited in conformity with law and the general rules and regulations adopted by the Department of General Services governing the presentation and audit of claims.~~

~~This bill, notwithstanding this limitation, would require the Controller to draw a warrant for any claim submitted by HCD to advance the payment of funds to a vendor selected to serve as program implementer~~

for purposes of the above-described rental assistance program. The bill would require the vendor to serve as the fiscal agent on behalf of HCD and be responsible for maintaining all records of claims for audit purposes. The bill would specify that these provisions would remain operative so long as funds are made available pursuant to the above-described rental assistance program or as otherwise provided under federal law.

(12) This bill would declare that its provisions are severable.

(13) 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.

(14) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

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

- 1 SECTION 1. Section 17131.8 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17131.8. (a) For taxable years beginning on ~~and~~ or after
- 4 January 1, ~~2020~~, 2019, gross income does not include any covered
- 5 loan amount forgiven pursuant to Section 1106 of the Coronavirus
- 6 Aid, Relief, and Economic Security Act (Public Law 116-136),
- 7 pursuant to the Paycheck Protection Program and Health Care
- 8 Enhancement Act (Public Law 116-139), ~~or~~ pursuant to the
- 9 Paycheck Protection Program Flexibility Act of 2020 (Public Law
- 10 ~~116-142~~. 116-142), or pursuant to the Consolidated
- 11 Appropriations Act, 2021 (Public Law 116-260).
- 12 (b) For taxable years beginning on or after January 1, 2019,
- 13 gross income does not include any advance grant amount issued
- 14 pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and
- 15 Economic Security Act (Public Law 116-136), or pursuant to
- 16 Section 331 of the Consolidated Appropriations Act, 2021 (Public
- 17 Law 116-260).
- 18 (c) (1) Notwithstanding Section 17280, for taxable years
- 19 beginning on or after January 1, 2019, Section 276 of Division N

1 of the Consolidated Appropriations Act, 2021 (Public Law
2 116-260) shall apply, except as provided in this subdivision.

3 (2) Paragraph (1) of subsection (a) of Section 276 of Division
4 N of the Consolidated Appropriations Act, 2021 (Public Law
5 116-260) is modified by inserting “, not to exceed \$150,000,” after
6 “exclusion”, and by inserting “, not to exceed \$150,000,” after
7 “tax exempt income”.

8 (3) Paragraph (2) of subsection (a) of Section 276 of Division
9 N of the Consolidated Appropriations Act, 2021 (Public Law
10 116-260) shall not apply.

11 (4) Subsection (b) of Section 276 of Division N of the
12 Consolidated Appropriations Act, 2021 (Public Law 116-260) is
13 modified by substituting the phrase “For purposes of the Internal
14 Revenue Code of 1986” with “For purposes of this part”.

15 (5) Paragraph (2) of subsection (b) of Section 276 of Division
16 N of the Consolidated Appropriations Act, 2021 (Public Law
17 116-260) is modified by inserting “, not to exceed \$150,000,” after
18 “exclusion”.

19 (6) Subparagraph (A) of paragraph (3) of subsection (b) of
20 Section 276 of Division N of the Consolidated Appropriations Act,
21 2021 (Public Law 116-260) is modified by inserting “, not to
22 exceed \$150,000,” after “tax exempt income”.

23 ~~(b) Any credit or deduction otherwise allowed under this part~~
24 ~~(d) (1) Notwithstanding Section 17280, for any amount paid~~
25 ~~taxable years beginning on or incurred by after January 1, 2019,~~
26 ~~Section 278 of Division N of the taxpayer upon which this exclusion~~
27 ~~is based Consolidated Appropriations Act, 2021 (Public Law~~
28 ~~116-260) shall be reduced by the amount of the exclusion allowed~~
29 ~~under apply, except as provided in this section. subdivision.~~

30 (2) Subsection (a) of Section 278 of Division N of the
31 Consolidated Appropriations Act, 2021 (Public Law 116-260) is
32 modified by substituting the phrase “UNITED STATES TREASURY
33 PROGRAM MANAGEMENT AUTHORITY.--For purposes of the
34 Internal Revenue Code of 1986” with “For purposes of this part”.

35 (3) Paragraph (2) of subsection (a) of Section 278 of Division
36 N of the Consolidated Appropriations Act, 2021 (Public Law
37 116-260) is modified by inserting “, not to exceed \$150,000,” after
38 “exclusion”.

39 (4) Subparagraph (A) of paragraph (3) of subsection (a) of
40 Section 278 of Division N of the Consolidated Appropriations Act,

1 2021 (Public Law 116-260) is modified by inserting “, not to
2 exceed \$150,000,” after “tax exempt income”.

3 (5) Subsection (b) of Section 278 of Division N of the
4 Consolidated Appropriations Act, 2021 (Public Law 116-120) is
5 modified by substituting the phrase “EMERGENCY EIDL GRANTS
6 AND TARGETED EIDL ADVANCES.--For purposes of the Internal
7 Revenue Code of 1986” with “For purposes of this part”.

8 (6) Paragraph (2) of subsection (b) of Section 278 of Division
9 N of the Consolidated Appropriations Act, 2021 (Public Law
10 116-260) is modified by inserting “, not to exceed \$150,000,” after
11 “exclusion”.

12 (7) Subparagraph (A) of paragraph (3) of subsection (b) of
13 Section 278 of Division N of the Consolidated Appropriations Act,
14 2021 (Public Law 116-260) is modified by inserting “, not to
15 exceed \$150,000,” after “tax exempt income”.

16 (8) Subsections (c), (d), and (e) of Section 278 of Division N of
17 the Consolidated Appropriations Act, 2021 (Public Law 116-260)
18 shall not apply.

19 (e) For purposes of this section, both of the following definitions
20 shall apply:

21 ~~(e) For purposes of this section, “covered~~

22 (1) “Covered loan” has the same meaning as in Section 1106
23 of the Coronavirus Aid, Relief, and Economic Security Act (Public
24 Law ~~116-136~~, 116-136), or pursuant to the Consolidated
25 Appropriations Act, 2021 (Public Law 116-260).

26 (2) “Advance grant amount” means an emergency grant
27 pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and
28 Economic Security Act (Public Law 116-136), or a targeted
29 Economic Injury Disaster Loan advance pursuant to Section 331
30 of the Consolidated Appropriations Act, 2021 (Public Law
31 116-260).

32 (f) Any amount disallowed as a deduction pursuant to this
33 section may not be included in the computation of net operating
34 loss deductions pursuant to Article 6 (commencing with Section
35 17201) of Chapter 3.

36 (g) The Administrative Procedure Act (Chapter 3.5 (commencing
37 with Section 11340) of Part 1 of Division 3 of Title 2 of the
38 Government Code) shall not apply to any standard, criterion,
39 procedure, determination, rule, notice, guideline, or any other

1 *guidance established or issued by the Franchise Tax Board*
2 *pursuant to this section.*

3 *(h) The amendments made by the act adding this subdivision*
4 *shall be operative for taxable years beginning on or after January*
5 *1, 2019.*

6 *SEC. 2. Section 24308.6 of the Revenue and Taxation Code is*
7 *amended to read:*

8 24308.6. (a) For taxable years beginning on ~~and~~ or after
9 January 1, ~~2020~~, 2019, gross income does not include any covered
10 loan amount forgiven pursuant to Section 1106 of the Coronavirus
11 Aid, Relief, and Economic Security Act (Public Law 116-136),
12 pursuant to the Paycheck Protection Program and Health Care
13 Enhancement Act (Public Law 116-139), ~~or~~ pursuant to the
14 Paycheck Protection Program Flexibility Act of 2020 (Public Law
15 ~~116-142~~; 116-142), or pursuant to the Consolidated
16 Appropriations Act, 2021 (Public Law 116-260).

17 (b) For taxable years beginning on or after January 1, 2019,
18 gross income does not include any advance grant amount issued
19 pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and
20 Economic Security Act (Public Law 116-136), or pursuant to
21 Section 331 of the Consolidated Appropriations Act, 2021 (Public
22 Law 116-260).

23 (c) (1) Notwithstanding Section 24425, for taxable years
24 beginning on or after January 1, 2019, Section 276 of Division N
25 of the Consolidated Appropriations Act, 2021 (Public Law
26 116-260) shall apply, except as provided in this subdivision.

27 (2) Paragraph (1) of subsection (a) of Section 276 of Division
28 N of the Consolidated Appropriations Act, 2021 (Public Law
29 116-260) is modified by inserting “, not to exceed \$150,000,” after
30 “exclusion”, and by inserting “, not to exceed \$150,000,” after
31 “tax exempt income”.

32 (3) Paragraph (2) of subsection (a) of Section 276 of Division
33 N of the Consolidated Appropriations Act, 2021 (Public Law
34 116-260) shall not apply.

35 (4) Subsection (b) of Section 276 of Division N of the
36 Consolidated Appropriations Act, 2021 (Public Law 116-260) is
37 modified by substituting the phrase “For purposes of the Internal
38 Revenue Code of 1986” with “For purposes of this part”.

39 (5) Paragraph (2) of subsection (b) of Section 276 of Division
40 N of the Consolidated Appropriations Act, 2021 (Public Law

1 116-260) is modified by inserting “, not to exceed \$150,000,” after
 2 “exclusion”.

3 (6) Subparagraph (A) of paragraph (3) of subsection (b) of
 4 Section 276 of Division N of the Consolidated Appropriations Act,
 5 2021 (Public Law 116-260) is modified by inserting “, not to
 6 exceed \$150,000,” after “tax exempt income”.

7 ~~(b) Any credit or deduction otherwise allowed under this part~~
 8 (d) (1) Notwithstanding Section 24425, for any amount paid
 9 taxable years beginning on or ~~incurred by~~ after January 1, 2019,
 10 Section 278 of Division N of the taxpayer upon which this exclusion
 11 is based Consolidated Appropriations Act, 2021 (Public Law
 12 116-260) shall be reduced by the amount of the exclusion allowed
 13 under apply, except as provided in this section. subdivision.

14 (2) Subsection (a) of Section 278 of Division N of the
 15 Consolidated Appropriations Act, 2021 (Public Law 116-260) is
 16 modified by substituting the phrase “UNITED STATES TREASURY
 17 PROGRAM MANAGEMENT AUTHORITY.--For purposes of the
 18 Internal Revenue Code of 1986” with “For purposes of this part”.

19 (3) Paragraph (2) of subsection (a) of Section 278 of Division
 20 N of the Consolidated Appropriations Act, 2021 (Public Law
 21 116-260) is modified by inserting “, not to exceed \$150,000,” after
 22 “exclusion”.

23 (4) Subparagraph (A) of paragraph (3) of subsection (a) of
 24 Section 278 of Division N of the Consolidated Appropriations Act,
 25 2021 (Public Law 116-260) is modified by inserting “, not to
 26 exceed \$150,000,” after “tax exempt income”.

27 (5) Subsection (b) of Section 278 of Division N of the
 28 Consolidated Appropriations Act, 2021 (Public Law 116-120) is
 29 modified by substituting the phrase “EMERGENCY EIDL GRANTS
 30 AND TARGETED EIDL ADVANCES - - For purposes of the
 31 Internal Revenue Code of 1986” with “For purposes of this part”.

32 (6) Paragraph (2) of subsection (b) of Section 278 of Division
 33 N of the Consolidated Appropriations Act, 2021 (Public Law
 34 116-260) is modified by inserting “, not to exceed \$150,000,” after
 35 “exclusion”.

36 (7) Subparagraph (A) of paragraph (3) of subsection (b) of
 37 Section 278 of Division N of the Consolidated Appropriations Act,
 38 2021 (Public Law 116-260) is modified by inserting “, not to
 39 exceed \$150,000,” after “tax exempt income”.

1 (8) Subsections (c), (d), and (e) of Section 278 of Division N of
2 the Consolidated Appropriations Act, 2021 (Public Law 116-260)
3 shall not apply.

4 (e) For purposes of this section, both of the following definitions
5 shall apply:

6 ~~(e) For purposes of this section, “covered~~

7 (1) “Covered loan” has the same meaning as in Section 1106
8 of the Coronavirus Aid, Relief, and Economic Security Act (Public
9 Law ~~116-136~~: 116-136), or pursuant to the Consolidated
10 Appropriations Act, 2021 (Public Law 116-260).

11 (2) “Advance grant amount” means an emergency grant
12 pursuant to Section 1110(e) of the Coronavirus Aid, Relief, and
13 Economic Security Act (Public Law 116-136), or a targeted
14 Economic Injury Disaster Loan advance pursuant to Section 331
15 of the Consolidated Appropriations Act, 2021 (Public Law
16 116-260).

17 (f) Any amount disallowed as a deduction pursuant to this
18 section may not be included in the computation of net operating
19 loss deductions pursuant to Article 1 (commencing with Section
20 24341) of Chapter 7.

21 (g) The Administrative Procedure Act (Chapter 3.5 (commencing
22 with Section 11340) of Part 1 of Division 3 of Title 2 of the
23 Government Code) shall not apply to any standard, criterion,
24 procedure, determination, rule, notice, guideline, or any other
25 guidance established or issued by the Franchise Tax Board
26 pursuant to this section.

27 (h) The amendments made by the act adding this subdivision
28 shall be operative for taxable years beginning on or after January
29 1, 2019.

30 SEC. 3. For the purposes of complying with Section 41 of the
31 Revenue and Taxation Code, with respect to Sections 17131.8 and
32 24308.6 of the Revenue and Taxation Code as amended by this
33 act (hereafter “the deductions, tax basis, and other attributes”),
34 the Legislature finds and declares all of the following:

35 (a) The specific goal, purpose, and objective that the deductions,
36 tax basis, and other attributes will achieve is to provide assistance
37 to small businesses operating in the state that have been harmed
38 economically by the COVID-19 pandemic.

39 (b) Detailed performance indicators for the Legislature to use
40 in determining whether the deductions, tax basis, and other

1 attributes meet the goal, purpose, and objective described in
2 subdivision (a) is the extent to which the businesses that received
3 the Payroll Protection Program (PPP) loans and subsequently
4 used the deductions, tax basis, and other attributes reflect the
5 industries, regions, and businesses by type of ownership that were
6 most substantially harmed by the COVID-19 pandemic, and
7 whether any particular industries, regions, or businesses by type
8 of ownership in the business community were not able to
9 participate in the PPP loans and the deductions, tax basis, and
10 other attributes.

11 (c) The Legislative Analyst's Office shall collaborate with the
12 Franchise Tax Board, as well as reviewing other publicly available
13 data, to analyze whether the PPP loans and the tax benefits of the
14 deductions, tax basis, and other attributes were distributed evenly
15 over industries, regions, and businesses by type of ownership
16 harmed by the COVID-19 pandemic and report by January 1,
17 2024, and in compliance with Section 9795 of the Government
18 Code, to the Legislature.

19 (d) The data collection requirements for determining whether
20 the deductions, tax basis, and other attributes meet, or fail to meet,
21 the specific goal, purpose, and objective described in subdivision
22 (a) are:

23 (1) To assist the Legislature in determining whether the
24 deductions, tax basis, and other attributes meet the specific goal,
25 purpose, and objective described in subdivision (a), and in order
26 to carry out its duties pursuant to subdivision (c), the Legislative
27 Analyst's Office may request information from the Franchise Tax
28 Board.

29 (2) (A) The Franchise Tax Board shall provide any available
30 data requested by the Legislative Analyst's Office pursuant to this
31 subdivision.

32 (B) The disclosure provisions of this paragraph shall be treated
33 as an exception to Section 19542 under Article 2 (commencing
34 with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
35 Revenue and Taxation Code.

36 SEC. 4. The Legislature hereby finds and declares that the
37 deductions and other tax benefits authorized by the amendments
38 to Sections 17131.8 and 24308.6 of the Revenue and Taxation
39 Code made by this bill serve the public purpose of securing the
40 financial condition of businesses that were economically harmed

1 *by the COVID-19 pandemic and do not constitute a gift of public*
2 *funds within the meaning of Section 6 of Article XVI of the*
3 *California Constitution.*

4 *SEC. 5. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the California Constitution and shall*
7 *go into immediate effect. The facts constituting the necessity are:*

8 *In order to provide, as soon as possible, much needed tax relief*
9 *in conformity with federal tax relief enacted due to the COVID-19*
10 *pandemic and to assist California businesses struggling under the*
11 *economic strain thereof, it is necessary that this act go into*
12 *immediate effect.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, January 25, 2021. (JR11)**