Senate Bill No. 824

Passed the Senate August 30, 2021

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Secretary of the Senate

Passed the Assembly August 19, 2021

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2021, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22971, 22973.2, 22978, 22979.24, and 22979.3 of the Business and Professions Code, to amend Section 15570.40 of the Government Code, to amend Sections 71200 and 71215 of the Public Resources Code, and to amend Sections 408, 452, 6359, 6369.7, 6591.6, 6833, 7655.5, 8876.5, 9035, 12631.5, 30181, 30182, 30183, 30186, 30187, 30188, 30281.5, 30354.7, 30454, 32252.5, 32390, 38404, 38405, 38412, 38423, 38451, 38577, 38606, 38616, 40101.5, 40168, 41020, 41021, 41023, 41024, 41027, 41028, 41030, 41031, 41032, 41040, 41041, 41045, 41049, 41050, 41051, 41052, 41054, 41055, 41056, 41060, 41061, 41062, 41063, 41070, 41072, 41073, 41074, 41076, 41077, 41080, 41081, 41083, 41084, 41086, 41087, 41088, 41089, 41090, 41095, 41095.5, 41096, 41097, 41097.5, 41098, 41099, 41100, 41101, 41101.1, 41101.2, 41104, 41105, 41106, 41107, 41110, 41111, 41113, 41114, 41114.1, 41115, 41118, 41119, 41120, 41121, 41122, 41123.5, 41123.6, 41124.1, 41125, 41126, 41127.5, 41127.6, 41127.7, 41127.8, 41128, 41131, 41133, 41133.1, 41133.2, 41133.3, 41133.4, 41143, 41144, 41150, 41160, 41161, 41162, 41164, 41165, 41166, 41167, 41168, 41169, 41170, 41172.5, 41174, 41175, 41176, 43155.5, 43449, 43651, 44001, 44003, 44004, 44005, 44006, 44007, 45153.5, 45610, 46154.5, 46466, 50112.1, 50138.8, 55003, 55042.5, 55211, 55381, 60207.5, and 60495 of, to add Sections 38451.5 and 41053.1 to, to repeal Sections 6244.5, 41011, 41014, 41015, 41016, 41017, 41018, 41019, 41026, and 41163 of, and to repeal and add Sections 41010 and 41052.1 of, the Revenue and Taxation Code, relating to tax and fee administration.

LEGISLATIVE COUNSEL'S DIGEST

SB 824, Committee on Governance and Finance. California Department of Tax and Fee Administration.

(1) Existing law establishes the California Department of Tax and Fee Administration (department) and provides that the department is the successor to, and is vested with, all of the duties, powers, and responsibilities of the State Board of Equalization. Existing law authorizes the department to adopt regulations as

necessary or appropriate to carry out the purposes of those provisions. Existing law exempts any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the department from the Administrative Procedure Act (APA).

This bill would, among other things, make various conforming changes consistent with that transfer of duties, powers, and responsibilities. The bill would also generally require or authorize, as provided, the department to administer its duties through electronic media, as specified. The bill would, on January 1, 2022, repeal the exemption from the APA described above.

(2) Existing law, the Marine Invasive Species Act, requires the master, owner, operator, or person in charge of a vessel carrying, or capable of carrying, ballast water, that operates in the waters of the state to take various actions to minimize the uptake and release of nonindigenous species. The act requires the department to collect a specified fee, established by the State Lands Commission, from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California.

This bill would additionally authorize the department to collect that fee from a vessel agent, as defined, acting on behalf of the owner or operator.

(3) Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state of, 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. The Sales and Use Tax Law provides various exemptions from those taxes, including an exemption for food products, as defined, for human consumption. Existing law defines "food products" to not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

This bill additionally would specify that "food products" does not include cannabis, medicinal cannabis, or medicinal cannabis products, as defined.

(4) Existing law, the Emergency Telephone Users Surcharge Act, imposes a surcharge on each access line for each month or part thereof for which a service user subscribes with a service supplier in an amount determined by the Office of Emergency Services, as specified.

This bill would make various changes related to the administration of the act, including by requiring the Office of Emergency Services, within 45 days of receiving a request from the department, to provide the department the name and address of each service supplier, each service supplier's total number of access lines, for the prior calendar year, and any other information the department deems necessary to conduct its responsibilities under the act.

(5) Existing law, the Hazardous Substances Tax Law, requires the department to provide all information obtained under law to the Department of Toxic Substances Control. The law makes it unlawful for a person that has an administrative duty under the law to make known the business affairs, operations, or any other information pertaining to a taxpayer that was submitted to the department in a report or return required by the law, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by these provisions.

This bill would, among other things, require the department to additionally provide all information obtained under the law to the State Department of Public Health and would apply the confidentiality provision described above to any information pertaining to a taxpayer without regard to whether it was submitted to the department in a report or return required by the law.

(6) The Timber Yield Tax Law imposes a timber yield tax on specified individuals, including every timber owner, as defined, who harvests timber, as defined, or causes it to be harvested on or after April 1, 1977, and on every person who, without authorization, intentionally or unintentionally harvests or causes to be harvested timber owned by another. Exiting law requires the interest for various underpayments or overpayments of the timber yield tax to be determined in accordance with federal law, unless the taxpayer is a corporation, for which the overpayment rate is the lesser of 5% or the bond equivalent rate of 13-week United States Treasury bills.

This bill would revise the underpayment interest rates for purposes of the timber yield tax to the amount determined in accordance with federal law plus 3 percentage points, and would revise the overpayment rate for all taxpayers to be equal to the bond equivalent rate of 13-week treasury bills, as specified.

(7) Existing property tax law requires every assessor to assess all property subject to general property taxation at its full value, as provided. Existing property tax law generally prohibits public inspection of information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, but requires the assessor to disclose information, furnish abstracts, or permit access to all records in the assessor's office to, among other entities, employees of the Franchise Tax Board, solely for tax administration purposes, and the State Board of Equalization.

This bill would additionally require the assessor to disclose information, furnish abstracts, or permit access to all records in the assessor's office to the California Department of Tax and Fee Administration. The bill would also make various technical changes to these provisions.

By requiring county assessors to provide specified information and record access to the department, this bill would impose a state-mandated local program.

(8) 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.

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 shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that a local agency or school district may pursue any available remedies to seek reimbursement for these costs.

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

SECTION 1. Section 22971 of the Business and Professions Code is amended to read:

22971. For purposes of this division, the following terms shall have the following meanings:

(a) "Brand family" has the same meaning as that term is defined in paragraph (2) of subdivision (a) of Section 30165.1 of the Revenue and Taxation Code.

(b) "Cigarette" means a cigarette as defined in Section 30003 of the Revenue and Taxation Code.

(c) (1) "Control" or "controlling" means possession, direct or indirect, of the power:

(A) To vote 25 percent or more of any class of the voting securities issued by a person.

(B) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or as otherwise provided; however, no individual shall be deemed to control a person solely on account of being a director, officer, or employee of that person.

(2) For purposes of subparagraph (B) of paragraph (1), a person who, directly or indirectly, owns, controls, holds, with the power to vote, or holds proxies representing 10 percent or more of the then outstanding voting securities issued by another person, is presumed to control that other person.

(3) For purposes of this division, the department may determine whether a person in fact controls another person.

(d) "Department" means the California Department of Tax and Fee Administration.

(e) "Display for sale" means the placement of cigarettes or tobacco products in a vending machine or in retail stock for the purpose of selling or gifting the cigarettes or tobacco products. For purposes of this definition, the clear and easily visible display of cigarettes or tobacco products shall create a rebuttable presumption that either were displayed for sale.

(f) "Distributor" means a distributor as defined in Section 30011 of the Revenue and Taxation Code.

(g) "Gifting" means any transfer of title or possession without consideration, exchange, or barter, in any manner or by any means, of cigarettes or tobacco products that have been purchased for resale under a license issued pursuant to this division if the transfer occurs while the license is suspended or after the effective date of its revocation.

(h) "Importer" means an importer as defined in Section 30019 of the Revenue and Taxation Code.

(i) "Law enforcement agency" means a sheriff, a police department, or a city, county, or city and county agency or department designated by the governing body of that agency to enforce this chapter or to enforce local smoking and tobacco ordinances and regulations.

(j) "License" means a license issued by the department pursuant to this division.

(k) "Licensee" means a person holding a license issued by the department pursuant to this division.

(*l*) "Local lead agency" means an agency designated as a local lead agency pursuant to Section 104400 of the Health and Safety Code.

(m) "Manufacturer" means a manufacturer of cigarettes or tobacco products sold in this state.

(n) "Notice" or "notification" means, unless as otherwise provided, the written notice or notification provided to a licensee by the department by either actual delivery to the licensee or by first-class mail addressed to the licensee at the address on the license.

(o) "Package of cigarettes" means a package as defined in Section 30015 of the Revenue and Taxation Code.

(p) "Person" means a person as defined in Section 30010 of the Revenue and Taxation Code.

(q) "Retailer" means a person who engages in this state in the sale of cigarettes or tobacco products directly to the public from a retail location. Retailer includes a person who operates vending machines from which cigarettes or tobacco products are sold in this state.

(r) "Retail location" means both of the following:

(1) Any building from which cigarettes or tobacco products are sold at retail.

(2) A vending machine.

(s) "Sale" or "sold" means a sale as defined in Section 30006 of the Revenue and Taxation Code.

(t) "Tobacco products" means tobacco products as defined in subdivision (b) of Section 30121 and subdivision (b) of Section 30131.1 of the Revenue and Taxation Code.

(u) "Unstamped package of cigarettes" means a package of cigarettes that does not bear a tax stamp as required under Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, including a package of cigarettes that bears a tax stamp of another state or taxing jurisdiction, a package of cigarettes that bears a counterfeit tax stamp, or a stamped or unstamped package of cigarettes that is marked "Not for sale in the United States."

(v) "Wholesaler" means a wholesaler as defined in Section 30016 of the Revenue and Taxation Code.

SEC. 2. Section 22973.2 of the Business and Professions Code is amended to read:

22973.2. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to retailers within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

SEC. 3. Section 22978 of the Business and Professions Code is amended to read:

22978. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to distributors and wholesalers for locations within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

SEC. 4. Section 22979.24 of the Business and Professions Code is amended to read:

22979.24. (a) Every manufacturer or importer holding a license pursuant to Section 22979.21 shall file, using electronic media in a manner specified by the department, a monthly report to the department. The monthly report shall include, but is not limited to, the following:

(1) A list of all distributors licensed pursuant to Section 22975 to which the manufacturer or importer shipped its tobacco products or caused its tobacco products to be shipped.

(2) The total wholesale cost of the products.

(b) The department may suspend the license or revoke the license, pursuant to the provisions applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code, of any importer or any manufacturer that has failed to comply with the requirements of this section.

(c) All information and records provided to the department pursuant to subdivision (a) are confidential in nature and shall not be disclosed by the department. Information required under subdivision (a) are not public records under the California Public Records Act, as described in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection.

(d) The amendments made to this section by the act adding this subdivision shall become operative May 1, 2007.

SEC. 5. Section 22979.3 of the Business and Professions Code is amended to read:

22979.3. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to manufacturers and importers for locations within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

SEC. 6. Section 15570.40 of the Government Code is amended to read:

15570.40. (a) The department may adopt regulations as necessary or appropriate to carry out the purposes of this part.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the department before January 1, 2022, including, but not limited to, any regulation adopted, amended, or repealed by the department and filed with the Office of Administrative Law before January 1, 2022.

(c) Until January 1, 2019, the adoption and readoption of emergency regulations to carry out the department's duties, powers, and responsibilities pursuant to this part shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6, and the department is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review of the emergency regulations by the Office of Administrative Law.

SEC. 7. Section 71200 of the Public Resources Code is amended to read:

71200. Unless the context otherwise requires, the following definitions govern the construction of this division:

(a) "Ballast tank" means a tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(b) "Ballast water" means water and suspended matter taken on board a vessel to control or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.

(c) "Biofouling" means the attachment or association of marine organisms to the wetted portion of a vessel or its appurtenances, including, but not limited to, sea chests, propellers, anchors, and associated chains.

(d) "Board" means the State Water Resources Control Board.

(e) "Coastal waters" means estuarine and ocean waters within 200 nautical miles of land or less than 2,000 meters (6,560 feet, 1,093 fathoms) deep, and rivers, lakes, or other water bodies navigably connected to the ocean.

(f) "Commission" means the State Lands Commission.

(g) "EEZ" means exclusive economic zone, which extends from the baseline of the territorial sea of the United States seaward 200 nautical miles.

(h) “Exchange” means to replace the water in a ballast tank using either of the following methods:

(1) “Flow through exchange,” which means to flush out ballast water by pumping three full volumes of mid-ocean water through the tank, continuously displacing water from the tank, to minimize the number of original coastal organisms remaining in the tank.

(2) “Empty/refill exchange,” which means to pump out, until the tank is empty or as close to 100 percent empty as is safe to do so, the ballast water taken on in ports, or estuarine or territorial waters, then to refill the tank with mid-ocean waters.

(i) “Land” means the material of the earth, whether soil, rock, or other substances, that sits landward of, or at an elevation higher than, the mean high-tide line of the ocean, including any rock outcroppings or islands located offshore.

(j) “Mid-ocean waters” means waters that are more than 200 nautical miles from land and at least 2,000 meters (6,560 feet, 1,093 fathoms) deep.

(k) “Nonindigenous species” means any species, including, but not limited to, the seeds, eggs, spores, or other biological material capable of reproducing that species, or any other viable biological material that enters an ecosystem beyond its historic range, including any of those organisms transferred from one country into another.

(*l*) “Pacific Coast Region” means all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 20 degrees N latitude, inclusive, of the Gulf of California.

(m) “Person” means an individual, trust, firm, joint stock company, business concern, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, or association. “Person” also means a city, county, city and county, district, commission, the state, or a department, agency, or political subdivision of the state, an interstate body, or the United States and its agencies and instrumentalities, to the extent permitted by law.

(n) “Port” means any port or place in which a vessel was, is, or will be anchored or moored, or where a vessel will transfer cargo.

(o) “Sediments” means matter settled out of ballast water within a vessel.

(p) "Vessel agent" means the party representing the vessel's owner or operator in port. A vessel agent may also be referred to as agent, marine agent, ship agent, or shipping agent.

(q) "Waters of the state" means surface waters, including saline waters, that are within the boundaries of the state.

(r) "Wetted portion of a vessel" means all parts of a vessel's hull and structures that are either submerged in water when the vessel is loaded to the deepest permissible legal draft or associated with internal piping structures in contact with water taken onboard.

(s) "Vessel" means a vessel of 300 gross registered tons or more.

(t) "Voyage" means any transit by a vessel destined for a California port from a port outside of the coastal waters of the state.

SEC. 8. Section 71215 of the Public Resources Code is amended to read:

71215. (a) (1) The Marine Invasive Species Control Fund is hereby created. The money in the fund, upon appropriation by the Legislature, shall be used solely to carry out this division.

(2) All money accruing to the Exotic Species Control Fund shall be transferred to the Marine Invasive Species Control Fund.

(b) (1) The commission shall administer the fund in accordance with this chapter.

(2) The commission shall establish, through regulation, a reasonable and appropriate fee solely for the purposes of carrying out this division. The fee may not exceed one thousand dollars ($1,000) for each voyage, as described in subdivision (c). This amount may be adjusted for inflation every two years.

(3) In establishing fees, the commission shall consult with a technical advisory group made up of interested persons, including, but not limited to, shipping and port representatives.

(4) The commission may establish lower levels of fees and the maximum amount of fees for individual shipping companies or vessels. Any fee schedule established, including the level of fees and the maximum amount of fees, shall take into account the impact of the fees on vessels operating from California in the Hawaii or Alaska trades, the frequency of calls by particular vessels to California ports within a year, the ballast water and biofouling management practices of the vessels, and other relevant considerations.

(c) The California Department of Tax and Fee Administration, in accordance with Part 22.5 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code, shall collect the fee from the owner or operator of each vessel, or the vessel agent acting on behalf of the owner or operator, that arrives at a California port or place from a port or place outside of California. That fee may not be assessed on any vessel arriving at a California port or place if that vessel comes directly from another California port or place and during that transit has not first arrived at a port or place outside California or moved outside the exclusive economic zone (EEZ) prior to arrival at the subsequent California port or place.

(d) Notwithstanding any other provision of law, all fees imposed pursuant to this section shall be deposited into the Marine Invasive Species Control Fund.

(e) Notwithstanding any other provision of law, all penalties and payments collected for violations of any requirements of this division shall be deposited into the Marine Invasive Species Control Fund.

SEC. 9. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b), (c), (d), (e), and (g), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records that shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) (1) The assessor may provide any appraisal data in the assessor's possession to the assessor of any county.

(2) The assessor shall disclose information, furnish abstracts, or permit access to all records in the assessor's office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the county recorder when conducting an investigation to determine

whether a documentary transfer tax is imposed, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, the California Department of Tax and Fee Administration, staff appraisers of the Division of Financial Institutions, the Department of Transportation, the Department of General Services, the High-Speed Rail Authority, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in the assessor's office to staff appraisers of the Department of Financial Protection and Innovation, the Department of Transportation, the Department of General Services, the High-Speed Rail Authority, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department, commission, or authority shall reimburse the assessor for any costs incurred as a result.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that the tax collector needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector the assessor's actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or the assessee's designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by the assessor, relating to the sale of any property comparable to the property of the assessee, if the assessor bases an assessment of the assessee's property, in whole

or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property or the assessee's designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest.

(A) Upon written request of an assessee or the assessee's designated representative, the assessor shall transmit the information, documents, or records described in paragraph (1) by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. This subparagraph shall not be construed or interpreted to limit the authority of the assessee or the assessee's designated representative to also inspect or copy information, documents, or records described in paragraph (1).

(B) Information, documents, and records requested by an assessee, or the assessee's representative, shall be transmitted pursuant to subparagraph (A) within a reasonable time period.

(C) The costs enumerated in subdivision (a) of Section 409 shall not apply to information, documents, or records requested by the assessee or the assessee's designated representative if that information is transmitted in electronic format, except that any developmental or indirect costs to provide that information, including costs to acquire or compile data that is not required to be kept or prepared by the assessor, may be recovered pursuant to Section 409.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee or the assessee's designated representative shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of the taxpayer's property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or the assessee's designated representative.

(2) If the assessee or the assessee's designated representative requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or the assessee's representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

(g) Upon the written request of the tax collector, the assessor shall provide to the tax collector information for the preparation and enforcement of Part 6 (commencing with Section 3351). The tax collector shall certify to the assessor that the tax collector needs the contact information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351). The assessor shall provide the information, which shall not include social security numbers. Any information provided to the tax collector pursuant to this subdivision shall not become a public record and shall not be open to public inspection. The tax collector shall reimburse the assessor for the actual and reasonable costs incurred by the assessor for providing the information to administer this subdivision. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent taxes and include the costs incurred subject to Sections 4112 and 4672.2. The tax collector or the tax collector's designated employee shall,

under penalty of perjury, certify to the assessor that they need the information to assist with the preparation and enforcement of Part 6 (commencing with Section 3351), and that the information provided pursuant to this subdivision that is not a public record and that is not open to public inspection shall not become a public record and shall not be open to public inspection.

SEC. 10. Section 452 of the Revenue and Taxation Code is amended to read:

452. (a) For the assessment year beginning in 1968 and each assessment year thereafter, the board shall prescribe in detail the content of property statements, including the specific wording, to be used by all assessors in the several counties, and cities and counties, and shall notify assessors of those specifications no later than the August 31 prior to the tax lien date on which they become effective. Each assessor shall incorporate the specifications on the exact form the assessor proposes to use and submit that form to the board for approval prior to use. The property statement shall not include any question that is not germane to the assessment function.

(b) (1) For property statements to be filed in the 2008 assessment year and each assessment year thereafter, the board shall prescribe that the property statement also include the following:

(A) A brief statement noting the obligation to pay use tax on taxable purchases for which sales tax was not applicable.

(B) Information regarding payment of use tax, which information may be limited to the California Department of Tax and Fee Administration's phone number and an internet website address at which specific information and forms for use tax payment may be obtained.

(C) A statement advising the taxpayer that information provided on a property statement may be shared with the California Department of Tax and Fee Administration.

(2) The board shall implement paragraph (1) in a manner that does not increase local costs.

SEC. 11. Section 6244.5 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, food products for human consumption.

(b) For the purposes of this section, "food products" includes all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, candy, gum, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages that are composed at least in part of milk or a milk product and that require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, including bottled water, but excluding spirituous, malt, or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" does not include any of the following:

(1) Medicines, including medicinal cannabis or medicinal cannabis products, as defined in Division 10 (commencing with Section 26000) of the Business and Professions Code, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) Cannabis, as defined in Section 11018 of the Health and Safety Code, and cannabis products, as defined in Section 11018.1 of the Health and Safety Code.

(3) This addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(d) None of the exemptions in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though those products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in combination, such as a hot meal, a hot specialty dish or serving, a hot sandwich, or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) does not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items, or components that have been prepared for sale in a heated condition and that are sold at any temperature that is higher than the air temperature of the room or place where they are sold.

(f) Notwithstanding paragraph (6) of subdivision (d), if the seller elects to separately account for sales of food products specified in subdivision (b), then the gross receipts from the sale of those food products shall be exempt under subdivision (a), provided that the separate accounting is fully documented in the seller's records. However, if the seller's records do not reflect the separate accounting of the gross receipts from sales of nontaxable food

products, the seller's election under this subdivision shall be revoked.

SEC. 13. Section 6369.7 of the Revenue and Taxation Code is amended to read:

6369.7. (a) On and after January 1, 2019, and before January 1, 2025, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building materials and supplies purchased by a qualified person for use by that qualified person in the construction of a qualified facility.

(b) For the purposes of this section, the following definitions apply:

(1) (A) "Building materials and supplies" includes any machinery, equipment, materials, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or other tangible personal property of any other nature or description that meet all of the following:

(i) Are necessary to construct and equip a qualified facility.

(ii) Become part of the completed facility.

(iii) Are transferred to the United States Department of Defense or the United States Department of Veterans Affairs as a gift described in paragraph (3).

(B) "Building materials and supplies" shall not include any tools or construction equipment other than those specified in subparagraph (A) that a qualified person uses in construction activities, specifically including construction of a qualified facility.

(2) "Qualified facility" means either of the following:

(A) A medical facility, or a temporary residential facility for families of patients receiving care, including either or both inpatient and outpatient care, at a medical facility, located on a United States military base in California.

(B) A United States Department of Veterans Affairs medical center, or a temporary residential facility for families of patients receiving care at or as part of a United States Department of Veterans Affairs medical center, located in California.

(3) "Qualified nonprofit organization" means an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that constructs a qualified facility as a gift to the United States Department of Defense pursuant to Section 2601 of Title 10 of the United States Code or the United States Department

of Veterans Affairs pursuant to Section 8301 of Title 38 of the United States Code.

(4) "Qualified person" means either or both of the following:

(A) A qualified nonprofit organization.

(B) A contractor, subcontractor, or builder working under contract with a qualified nonprofit organization to construct a qualified facility.

(c) The exemption provided by this section shall only apply to sales and purchases that occur after the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the offer of the qualified nonprofit organization to construct the qualified facility and on or before the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the qualified facility.

(d) (1) An exemption shall not be allowed under this section with respect to sales by, or purchases from, a retailer engaged in business in this state or from a retailer that is authorized by the California Department of Tax and Fee Administration, under the rules and regulations as it may prescribe, to collect the tax and that is, for the purposes of this part relating to the use tax, regarded as a retailer engaged in business in this state, unless the purchaser furnishes the retailer with an exemption certificate completed in accordance with any instructions or regulations as the California Department of Tax and Fee Administration may prescribe and the retailer retains a copy of the exemption certificate in its records and furnishes the copy of the exemption certificate to the California Department of Tax and Fee Administration upon request.

(2) If a purchaser furnishes the retailer with a copy of an exemption certificate pursuant to paragraph (1), but uses building materials and supplies purchased with the exemption certificate in a manner not qualifying for the exemption, the purchaser is liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the building materials and supplies at the time the property is so used, and the cost of the building materials and supplies to the purchaser shall be deemed the gross receipts from that retail sale.

SEC. 14. Section 6591.6 of the Revenue and Taxation Code is amended to read:

6591.6. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest

at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:

(1) The payment of tax or the prepayment was made one business day after the date the tax or prepayment was due.

(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments or prepayments of taxes.

SEC. 15. Section 6833 of the Revenue and Taxation Code is amended to read:

6833. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 16. Section 7655.5 of the Revenue and Taxation Code is amended to read:

7655.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:

(1) The payment of tax or the prepayment was made one business day after the date the tax or prepayment was due.

(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.

(3) The person files for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments or prepayments of taxes.

SEC. 17. Section 8876.5 of the Revenue and Taxation Code is amended to read:

8876.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

(1) The payment of tax was made one business day after the date the tax was due.

(2) The person was granted relief from all penalties that applied to that payment of tax.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments of taxes.

SEC. 18. Section 9035 of the Revenue and Taxation Code is amended to read:

9035. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee

Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 19. Section 12631.5 of the Revenue and Taxation Code is amended to read:

12631.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:

(1) The payment of tax or prepayment was made one business day after the date the tax or prepayment was due.

(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.

(e) This section shall only apply to electronic payments or prepayments of taxes.

SEC. 20. Section 30181 of the Revenue and Taxation Code is amended to read:

30181. (a) If any tax imposed upon cigarettes under this part is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

(b) Each distributor of tobacco products shall file a return using electronic media in the form, as prescribed by the department respecting the distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the department may require to carry out this part. The return shall be filed with the department on or before the 25th day of the calendar month following the close of the monthly period for which it relates, together with a remittance payable to the department, of the amount of tax, if any, due under Article 2 (commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2 for that period.

(c) To facilitate the administration of this part, the department may require the filing of the returns for longer than monthly periods.

(d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 21. Section 30182 of the Revenue and Taxation Code is amended to read:

30182. (a) Except as provided in subdivision (b), a distributor shall file, on or before the 25th day of each month, a report using electronic media in the form as prescribed by the department with respect to distributions of cigarettes and purchases of stamps and meter register units during the preceding month and any other information as the department may require to carry out this part.

(b) Reports shall be authenticated in a form, or pursuant to methods, as may be prescribed by the department.

SEC. 22. Section 30183 of the Revenue and Taxation Code is amended to read:

30183. (a) On or before the 25th day of each month every distributor required under Section 30108 to collect any tax during the preceding month shall file a report with the department using electronic media in the form as prescribed by the department showing the number of cigarettes with respect to which the distributor was required to collect the tax and any other information as the department may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) On or before the 25th day of each month, each distributor required to collect any tax during the preceding month pursuant to Section 30108 shall file a return using electronic media in the form as prescribed by the department that shows the wholesale cost of tobacco products with respect to which the distributor was required to collect the tax and any other information as the department may require to carry out this part. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 23. Section 30186 of the Revenue and Taxation Code is amended to read:

30186. On or before the 25th day of each month, the common carriers and authorized persons specified in Section 30104 shall file, using electronic media, with the department a report of the sales of cigarettes or tobacco products made by them on the facilities of the carriers in California in the preceding calendar month in that detail as the department may prescribe and in the form as prescribed by the department, submitting with the report the amount of the tax due under Section 30104. Reports shall be

authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 24. Section 30187 of the Revenue and Taxation Code is amended to read:

30187. Every consumer or user subject to the tax resulting from a distribution of cigarettes or tobacco products within the meaning of subdivision (b) of Section 30008 from whom the tax has not been collected under Section 30108 shall, on or before the last day of the month following the end of the quarter, file, using electronic media, with the department a report of the amount of cigarettes or tobacco products received by that person in the preceding calendar quarter in that detail as the department may prescribe and in the form as prescribed by the department, submitting with the report the amount of tax due. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 25. Section 30188 of the Revenue and Taxation Code is amended to read:

30188. On or before the 25th day of each month, every wholesaler shall file a report using electronic media in the form as prescribed by the department, respecting the wholesaler's inventory, purchases, and sales of cigarettes or tobacco products during the preceding month and any other information as the department may require to carry out the purposes of this part. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 26. Section 30281.5 of the Revenue and Taxation Code is amended to read:

30281.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

(1) The payment of tax was made one business day after the date the tax was due.

(2) The person was granted relief from all penalties that applied to that payment of tax.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no report or return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments of taxes.

SEC. 27. Section 30354.7 of the Revenue and Taxation Code is amended to read:

30354.7. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and

Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 28. Section 30454 of the Revenue and Taxation Code is amended to read:

30454. (a) The department or its authorized representative may make examinations of the books, papers, records, and equipment of any person dealing in, transporting, or storing cigarettes or tobacco products and other investigations as it may deem necessary in carrying out the provisions of this part.

(b) In addition to any other reports required under this part, the department may, by rule or otherwise, require additional, other, or supplemental reports from licensed distributors, dealers, transporters, common and private carriers, warehouse workers, bailees, and other persons, including reports of shipments of cigarettes or tobacco products from a point outside this state to a point within this state, and prescribe the form, including verification, of the information to be given on, and the times for filing of, additional, other, or supplemental reports.

(c) A report required to be filed under this section or Section 376 of Title 15 of the United States Code shall be filed using electronic media. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 29. Section 32252.5 of the Revenue and Taxation Code is amended to read:

32252.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

(1) The payment of tax was made one business day after the date the tax was due.

(2) The person was granted relief from all penalties that applied to that payment of tax.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments of taxes.

SEC. 30. Section 32390 of the Revenue and Taxation Code is amended to read:

32390. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and

Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 31. Section 38404 of the Revenue and Taxation Code is amended to read:

38404. The department, if it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters, or for other than quarterly periods.

SEC. 32. Section 38405 of the Revenue and Taxation Code is amended to read:

38405. (a) Except as provided in subdivision (b), the California Department of Tax and Fee Administration for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the California Department of Tax and Fee Administration within or prior to the period for which the extension may be granted.

(b) (1) In the case of a disaster, the California Department of Tax and Fee Administration, for a period not to exceed three months, may extend the time for making any report or return or paying any tax required under this part. The extension may be granted at any time provided a request therefor is filed with the California Department of Tax and Fee Administration within or before the period for which the extension may be granted.

(2) For purposes of this section, “disaster” means fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

(c) Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, as defined in Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

SEC. 33. Section 38412 of the Revenue and Taxation Code is amended to read:

38412. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, as defined in Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 34. Section 38423 of the Revenue and Taxation Code is amended to read:

38423. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, as defined in Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 35. Section 38451 of the Revenue and Taxation Code is amended to read:

38451. (a) Subject to subdivision (c), a person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the California Department of Tax and Fee Administration under Articles 2 or 3 of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or the amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5 from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(b) Subject to subdivision (c), a person who fails to file a return in accordance with the due date set forth in Section 38401 or the due date established by the California Department of Tax and Fee Administration in accordance with Section 38404, shall pay a penalty of one hundred dollars ($100).

(c) A person who is liable for the penalties described in this section shall pay either the penalty described in subdivision (a) or the penalty described in subdivision (b), whichever is greater.

SEC. 36. Section 38451.5 is added to the Revenue and Taxation Code, to read:

38451.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

(1) The payment of the tax was made one business day after the date the tax was due.

(2) The person was granted relief from all penalties that applied to that tax payment.

(3) The person files a request for an adjustment.

(b) For purposes of this section:

(1) "Business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(2) "Department" means the California Department of Tax and Fee Administration.

(3) "Modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) This section shall not apply to any payment made pursuant to a deficiency determination, a determination if no return has been filed, or a jeopardy determination issued by the department.

(d) This section shall apply only to electronic payments of taxes.

SEC. 37. Section 38577 of the Revenue and Taxation Code is amended to read:

38577. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 38. Section 38606 of the Revenue and Taxation Code is amended to read:

38606. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month, or fraction thereof, as defined in Section 6591.5, from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 39. Section 38616 of the Revenue and Taxation Code is amended to read:

38616. In any judgment, interest shall be allowed at the modified adjusted rate per month, or fraction thereof, as defined in Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the California Department of Tax and Fee Administration.

SEC. 40. Section 40101.5 of the Revenue and Taxation Code is amended to read:

40101.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the surcharge was due until the date of payment, if all of the following occur:

(1) The payment of the surcharge was made one business day after the date the surcharge was due.

(2) The person was granted relief from all penalties that applied to that payment of the surcharge.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.

(e) This section shall only apply to electronic payments of surcharges.

SEC. 41. Section 40168 of the Revenue and Taxation Code is amended to read:

40168. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of surcharge, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal

to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other surcharge imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other surcharge imposed by this part.

SEC. 42. Section 41010 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 41010 is added to the Revenue and Taxation Code, to read:

41010. "Access line in this state" means a telephone line, as defined in Section 233 of the Public Utilities Code, associated with a billing address located in California.

SEC. 44. Section 41011 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 41014 of the Revenue and Taxation Code is repealed.

SEC. 46. Section 41015 of the Revenue and Taxation Code is repealed.

SEC. 47. Section 41016 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 41017 of the Revenue and Taxation Code is repealed.

SEC. 49. Section 41018 of the Revenue and Taxation Code is repealed.

SEC. 50. Section 41019 of the Revenue and Taxation Code is repealed.

SEC. 51. Section 41020 of the Revenue and Taxation Code is amended to read:

41020. (a) (1) (A) On and after January 1, 2020, a surcharge is hereby imposed on each access line for each month or part thereof for which a service user subscribes with a service supplier, at an amount determined under Article 2 (commencing with Section 41030).

(B) The surcharge shall be paid by the service user as hereinafter provided.

(2) On and after January 1, 2020, the purchase of prepaid mobile telephony services in this state shall be subject to a surcharge set forth under Article 2 (commencing with Section 41030). The surcharge shall be paid by the prepaid consumer in accordance with Section 41028 and remitted and administered in accordance with this part.

(b) The surcharge imposed shall not apply to either of the following:

(1) In accordance with the Mobile Telecommunications Sourcing Act (Public Law 106-252), which is incorporated herein by reference, to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(2) To any charges for VoIP service billed to a customer where those services are provided to a customer whose place of primary use of VoIP service is outside this state.

(c) For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(2) "Customer" means (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or with a VoIP service provider for VoIP service, or (B) if the end user of mobile telecommunications services or VoIP service is not the contracting party, the end user of the mobile telecommunications service or VoIP service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include (A) a reseller of mobile telecommunications service or VoIP communication service, or (B) a serving carrier under an arrangement to serve the mobile customer outside the home service provider's licensed service area.

(3) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service or VoIP service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) With respect to mobile telecommunications service, within the licensed service area of the home service provider.

(7) (A) "Reseller" means a provider who purchases telecommunications services or VoIP service from another telecommunications service provider or VoIP service and then resells the services, or uses the services as a component part of, or integrates the purchased services into, a mobile telecommunications service or VoIP service.

(B) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(8) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed area.

(9) "Taxing jurisdiction" means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(10) "VoIP service provider" means that provider of VoIP service with whom the end user customer contracts for the provision of VoIP services for the customer's own use and not for resale.

SEC. 52. Section 41021 of the Revenue and Taxation Code is amended to read:

41021. (a) A service supplier shall collect the surcharge from each service user at the time it collects its billings from the service user. The duty to collect the surcharge from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the operative date of the surcharge imposed by this part. If the stations or lines of more than one service supplier are utilized in furnishing the telephone communication services to the service user, the service supplier that bills the customer shall collect the surcharge from the customer.

(b) Only one payment per month under this part shall be required with respect to the surcharge on an access line.

SEC. 53. Section 41023 of the Revenue and Taxation Code is amended to read:

41023. The surcharge required to be collected by the service supplier, and any amount unreturned to the service user that is not

a surcharge but was collected from the service user as representing a surcharge, constitute debts owed by the service supplier to this state.

A service supplier that has collected any amount of surcharge in excess of the amount of surcharge imposed by this part and actually due from a service user, may refund that amount to the service user, even though that surcharge amount has already been paid over to the department and a corresponding credit or refund has not yet been secured. The service supplier may claim credit for that overpayment refund against the amount of surcharge imposed by this part that is due upon any other return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

SEC. 54. Section 41024 of the Revenue and Taxation Code is amended to read:

41024. Every service user in this state is liable for the surcharge until it has been paid to this state, except that payment to a service supplier registered under this part is sufficient to relieve the user from further liability for the surcharge.

Any surcharge collected from a service user that has not been remitted to the department shall be deemed a debt owed to the state by the person required to collect and remit that surcharge. Nothing in this part shall impose any obligation upon a service supplier to take any legal action to enforce the collection of the utility users surcharge imposed by this part. The service supplier shall provide the department with amounts uncollected which total three dollars ($3) or more on a cumulative basis with respect to a single service user along with the names, addresses, and reasons of the service users refusing to pay the surcharge imposed by this part.

SEC. 55. Section 41026 of the Revenue and Taxation Code is repealed.

SEC. 56. Section 41027 of the Revenue and Taxation Code is amended to read:

41027. Nothing in this part shall be construed as imposing a surcharge upon access lines or on the purchase of prepaid mobile telephony services if imposition of that surcharge would be in violation of the Constitution of the United States, the United States Code, or the laws of the state.

SEC. 57. Section 41028 of the Revenue and Taxation Code is amended to read:

41028. (a) (1) On and after January 1, 2020, the surcharge amount imposed by Section 41020 on the purchase of prepaid mobile telephony services in this state shall be collected by a seller from each prepaid consumer at the time of each retail transaction in this state. The surcharge shall be imposed at an amount as determined under Article 2 (commencing with Section 41030) on each retail transaction that occurs in this state.

(2) The amount of the surcharge shall be separately stated on an invoice, receipt, or other similar document that is provided to the prepaid consumer of mobile telephony services by the seller, or otherwise disclosed electronically to the prepaid consumer, at the time of the retail transaction.

(b) (1) The surcharge that is required to be collected by a seller and any amount unreturned to the prepaid consumer of mobile telephony services that is not owed as part of the surcharge, but was collected from the prepaid consumer under the representation by the seller that it was owed as part of the surcharge, constitutes debts owed by the seller to this state.

(2) A seller that has collected any amount of surcharge in excess of the amount of the surcharge imposed by this part and actually due from a prepaid consumer may refund that amount to the prepaid consumer, even though the surcharge amount has already been paid over to the department and a corresponding credit or refund has not yet been secured. The seller may claim credit for that overpayment refund against the amount of surcharge imposed by this part that is due upon any other return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) (1) Every prepaid consumer of prepaid mobile telephony services in this state is liable for the surcharge until it has been paid to this state, except that payment to a seller registered under this part relieves the prepaid consumer from further liability for the surcharge. Any surcharge collected from a prepaid consumer that has not been remitted to the department shall be a debt owed to the state by the person required to collect and remit the surcharge. Nothing in this part shall impose any obligation upon a seller to take any legal action to enforce the collection of the surcharge imposed by this section.

(2) A credit shall be allowed against, but shall not exceed, the surcharge amount imposed on any prepaid consumer of mobile telephony services by this part to the extent that the prepaid consumer has paid emergency telephone users charges on the purchase to any other state, political subdivision thereof, or the District of Columbia. The credit shall be apportioned to the charges against which it is allowed in proportion to the amounts of those charges.

(d) A seller is relieved from liability to collect the surcharge imposed by this part that became due and payable, insofar as the base upon which the surcharge is imposed is represented by accounts that have been found to be worthless and charged off for income tax purposes by the seller or, if the seller is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A seller that has previously paid the surcharge may, under rules and regulations prescribed by the department take as a deduction on its return the amount found worthless and charged off by the seller. If any such accounts are thereafter in whole or in part collected by the seller, the amount so collected shall be included in the first return filed after such collection and the surcharge shall be paid with the return.

(e) For purposes of this section, a retail transaction occurs in the state under any of the following circumstances:

(1) The prepaid consumer makes the retail transaction in person at a business location in the state (point-of-sale transaction).

(2) If paragraph (1) is not applicable, the prepaid consumer's address is in the state (known-address transaction). A known-address transaction occurs in the state under any of the following circumstances:

(A) The retail sale involves shipping of an item to be delivered to, or picked up by, the prepaid consumer at a location in the state.

(B) If the prepaid consumer's address is known by the seller to be in the state, including if the seller's records maintained in the ordinary course of business indicate that the prepaid consumer's address is in the state and the records are not made or kept in bad faith.

(C) The prepaid consumer provides an address during consummation of the retail transaction that is in the state, including an address provided with respect to the payment instrument if no other address is available and the address is not given in bad faith.

(3) If an address is not available to the seller to determine whether any of the circumstances in paragraph (2) exist, the transaction will be deemed to be a known-address transaction occurring in this state if the mobile telephone number is associated with a location in this state.

(f) The surcharge amounts imposed under this section shall be remitted by every seller, except a service supplier, as prescribed under Part 1 (commencing with Section 6001), along with a return filed using electronic media. The department shall administer such remittance and returns as prescribed under Part 1 (commencing with Section 6001).

(g) Notwithstanding Article 1.1 (commencing with Section 41060) of Chapter 4, any seller, except a service supplier, required, or that elects, to remit amounts due under Part 1 (commencing with Section 6001) by electronic funds transfer pursuant to Article 1.2 (commencing with Section 6479.3) of Chapter 5 of Part 1 shall remit the surcharge upon prepaid mobile telephony service amounts due under this section by electronic funds transfer.

(h) The purchase in a retail transaction in this state of prepaid mobile telephony services, either alone or in combination with mobile data or other services, by a prepaid consumer is exempt from the surcharge if all of the following apply:

(1) The prepaid consumer is certified as eligible for the state lifeline program or federal lifeline program.

(2) The seller is authorized to provide lifeline service under the state lifeline program or federal lifeline program.

SEC. 58. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. (a) The Office of Emergency Services shall determine annually, on or before October 1, to be effective on January 1 of the following year, a surcharge amount pursuant to subdivision (b) that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs.

(b) For determinations made that are applicable to the calendar year beginning on January 1, 2020, and each calendar year thereafter, the surcharge amount shall be determined annually by dividing the costs, including incremental costs, the Office of Emergency Services estimates for the current fiscal year of 911 costs approved pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the

Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the number of access lines to which the surcharge will apply per month for the period of January 1 to December 31, inclusive, of the next succeeding calendar year, but in no event shall the surcharge amount in any month be greater than eighty cents ($0.80) per access line per month.

(c) When determining the surcharge amount pursuant to this section, the office shall include the costs it expects to incur to plan, test, implement, and operate Next Generation 911 technology and services, including text to 911 service, and alerts and warnings, consistent with the plan and timeline required by Section 53121 of the Government Code.

(d) (1) Service suppliers shall report the total number of access lines to the Office of Emergency Services, on or before August 1, for the previous period of January 1 to December 31, inclusive.

(2) The total number of access lines required to be reported in paragraph (1) shall include all lines from the categories of wireline communication service line, wireless communication service line, prepaid mobile telephony service line, and VoIP service line. The number of access line figures shall be reported individually for these categories.

(3) Notwithstanding any other law, the Office of Emergency Services, within 45 days of receiving a request from the department, shall provide the department the name and address of each service supplier, each service supplier's total number of access lines, as provided in paragraph (2) for the prior calendar year, and any other information the department deems necessary to conduct its responsibilities under this part.

(e) The office shall perform a validation of the number of access lines using subscription data or other comparable data collected by appropriate federal or state agencies. This subscription data or other comparable data shall be used to validate the access line data required to be reported by service suppliers in subdivision (d).

(f) (1) The office shall notify the department of the surcharge amount imposed under this part, determined pursuant to this section on or before October 1 of each year.

(2) The surcharge imposed on the purchase of prepaid mobile telephony services shall be equal to the amount set forth in subdivision (b) for each retail transaction in this state.

(g) (1) At least 30 days prior to determining the surcharge pursuant to subdivision (a), the Office of Emergency Services shall prepare a summary of the calculation of the proposed surcharge and make it available to the public, the Legislature, the 911 Advisory Board, and on its internet website.

(2) For determinations made on or before October 1, 2019, the summary shall contain all of the following:

(A) The prior year revenues to fund 911 costs, including, but not limited to, revenues from prepaid service.

(B) Projected expenses and revenues from all sources, including, but not limited to, prepaid service to fund 911 costs.

(C) The rationale for adjustment to the surcharge determined pursuant to subdivision (b), including, but not limited to, all impacts from the surcharge collected pursuant to Part 21 (commencing with Section 42001).

(h) For purposes of this section, for the determination made by the office on or before October 1, 2019, that is applicable for the calendar year beginning on January 1, 2020, and ending on December 31, 2020, the following definitions shall apply:

(1) "Service supplier" shall mean a person supplying an access line to a service user in this state.

(2) "Service user" means any person that subscribes for the right to utilize an access line in this state who is required to pay a surcharge under the provisions of this part.

SEC. 59. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The Office of Emergency Services shall make its determination of the surcharge amount each year no later than October 1 and shall notify the department of the new surcharge amount, which shall be effective with respect to access lines and the purchase of prepaid mobile telephony services on or after January 1 of the next succeeding calendar year.

SEC. 60. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the Office of Emergency Services, the department shall notify every service supplier and seller registered with it of the new amount by a means determined by the department that may include, but is not limited to, mail, electronic mail, or internet website postings.

SEC. 61. Section 41040 of the Revenue and Taxation Code is amended to read:

41040. Every service supplier or seller in this state shall register with the department upon a form prescribed by the department and shall set forth the name under which it transacts or intends to transact business and other information as the department may require.

SEC. 62. Section 41041 of the Revenue and Taxation Code is amended to read:

41041. (a) When necessary to ensure compliance with this part, the department may require any person subject to this part to place with it the security that the department determines. Security in the form of cash, insured deposits in banks or savings and loan institutions, or a bond or bonds duly executed by an admitted surety insurer, payable to the state, conditioned upon faithful performance of all of the requirements of this part and expressly providing for the payment of all surcharges, penalties, and other obligations of the person arising out of this part, shall be held in trust to be used solely in the manner provided by this section. The amount of security shall be fixed by the department, not to exceed twice the estimated average quarterly liability of persons filing for quarterly periods, or three times the estimated average monthly liability of persons filing for monthly periods, determined in the manner that the department deems proper. Security held by the department shall be released after a three-year period in which the person has filed all returns and paid all surcharges due to the state under this part or any amount of surcharge required to be collected and paid to the state within the time required.

(b) If, when a person discontinues business, the department holds security pursuant to this section in the form of cash or insured deposits in banks or savings and loan institutions, the security when applied to the account of the taxpayer shall be deemed a payment on any liability of the person to the department on the date the business is discontinued.

(c) This section shall not apply to a taxpayer who either has timely filed all returns and paid all surcharges due to the state under this part for the three consecutive years prior to the effective date of this section, or has, on or before July 31, 1998, timely filed all returns and paid all surcharges due to the state under this part since the taxpayer registered with the department pursuant to

Section 41040. However, the department may require security from any taxpayer who fails to remain in compliance with the reporting and payment requirements of this part subsequent to the effective date of this section.

SEC. 63. Section 41045 of the Revenue and Taxation Code is amended to read:

41045. The surcharges imposed by this part, other than the surcharge imposed pursuant to Section 41028, shall be collected insofar as practicable at the same time as, and along with, the charges made in accordance with regular billing practice of the service supplier.

SEC. 64. Section 41049 of the Revenue and Taxation Code is amended to read:

41049. If an exemption is claimed by reason of the provisions of this part, and the service supplier or seller questions the validity of the claimed exemption, either the service supplier, seller, or the service user may request the department to issue a ruling as to the validity of the claimed exemption, accompanying the request with a statement showing the facts and basis for the claim. The department shall issue its ruling within 30 days of receipt of the request. Pending issuance of the ruling, the service supplier or seller shall not be obligated to collect the surcharge from the claimant.

SEC. 65. Section 41050 of the Revenue and Taxation Code is amended to read:

41050. (a) The surcharge imposed by subparagraph (A) of paragraph (1) of subdivision (a) of Section 41020 is imposed to each access line for which a service user has subscribed in any calendar month, whether or not the subscription covered all or part of any month.

(b) If a service user subscribes for service with one service supplier for a portion of a month and then subscribes for service with another service supplier for the remainder of the same month, the service user is liable for the surcharge to each of the access lines for which the service user has subscribed with the service supplier.

SEC. 66. Section 41051 of the Revenue and Taxation Code is amended to read:

41051. The surcharges imposed by this part and the amounts thereof required to be collected are due monthly, and the amount

of surcharge collected in one calendar month by the service supplier shall be remitted to the department on or before the last day of the second month following the month in which the surcharges were collected.

SEC. 67. Section 41052 of the Revenue and Taxation Code is amended to read:

41052. (a) On or before the last day of the second month following each month in which the surcharges were collected, a return for that month shall be filed by a service supplier with the department using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) The service supplier shall include a list of any service users who have refused to pay a cumulative total of three dollars ($3) or more of the surcharge imposed by this part with each return filing.

SEC. 68. Section 41052.1 of the Revenue and Taxation Code is repealed.

SEC. 69. Section 41052.1 is added to the Revenue and Taxation Code, to read:

41052.1. The department may require the payment of the amount due and the filing of returns for periods other than the periods set forth under this part.

SEC. 70. Section 41053.1 is added to the Revenue and Taxation Code, to read:

41053.1. (a) Notwithstanding Sections 41053 and 41055, the surcharge imposed pursuant to Section 41028 and collected by a seller, except a service supplier, is due and payable to the department quarterly on or before the last day of the month following each calendar quarter.

(b) On or before the last day of the month following each calendar quarter, a return for the preceding calendar quarter shall be filed using electronic media with the department. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

SEC. 71. Section 41054 of the Revenue and Taxation Code is amended to read:

41054. (a) Except as provided in subdivision (b), the department, for good cause, may extend not to exceed one month the time for making any return or paying any amount required to

be paid under this part. The extension may be granted at any time provided a request therefor is filed with the department within or prior to the period for which the extension may be granted.

(b) (1) In the case of a disaster, the department, for a period not to exceed three months, may extend the time for making any report or return or paying any surcharge required under this part. The extension may be granted at any time provided a request therefor is filed with the department within or before the period for which the extension may be granted.

(2) For purposes of this section, "disaster" means fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

SEC. 72. Section 41055 of the Revenue and Taxation Code is amended to read:

41055. All amounts required to be paid to the state under this part shall be paid to the department in the form of remittances payable to the California Department of Tax and Fee Administration.

SEC. 73. Section 41056 of the Revenue and Taxation Code is amended to read:

41056. The service supplier and seller shall maintain records as may be necessary to determine the amount of surcharge collected under provisions of this part. Those records shall be maintained for a period of four years from the time the surcharge is due.

SEC. 74. Section 41060 of the Revenue and Taxation Code is amended to read:

41060. (a) Any service supplier whose estimated surcharge liability under this part averages twenty thousand dollars ($20,000) or more per month, as determined by the department pursuant to methods of calculation prescribed by the department, shall remit amounts due by an electronic funds transfer under procedures prescribed by the department.

(b) Any service supplier whose estimated surcharge liability under this part averages less than twenty thousand dollars ($20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the department.

(c) Any service supplier remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 41050). Payment is deemed complete on the date the

electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the department. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharges with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the department under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a service supplier's estimated surcharge liability averages twenty thousand dollars ($20,000) or more per month, the department may consider returns filed pursuant to this part and any other information in the department's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharges due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 41095.

(i) The department shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

SEC. 75. Section 41061 of the Revenue and Taxation Code is amended to read:

41061. If the department finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with department procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 41060. Any person seeking to be relieved of the penalty shall file with the department a statement under penalty of perjury setting forth the facts upon which that person bases the claim for relief.

SEC. 76. Section 41062 of the Revenue and Taxation Code is amended to read:

41062. (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of the surcharge. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through their own

bank, originates an entry crediting the state's bank account and debiting the person's own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) "Fedwire transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits their own bank account and credits the state's bank account. Electronic funds transfers pursuant to Section 41060 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the department. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 77. Section 41063 of the Revenue and Taxation Code is amended to read:

41063. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic media shall be filed and authenticated pursuant to any method or form the department may prescribe.

(b) Notwithstanding any other law, any return, declaration, statement, or other document otherwise required to be signed that is filed by the taxpayer using electronic media in a form as required by the department shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the department.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

SEC. 78. Section 41070 of the Revenue and Taxation Code is amended to read:

41070. If the department is not satisfied with return or returns of the surcharge or the amount of surcharge required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession, one or more deficiency determinations may be made of the amount payable for one or for more than one period.

SEC. 79. Section 41072 of the Revenue and Taxation Code is amended to read:

41072. In making a determination the department may offset overpayments for another period or periods, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SEC. 80. Section 41073 of the Revenue and Taxation Code is amended to read:

41073. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the amount of the determination shall be added thereto.

SEC. 81. Section 41074 of the Revenue and Taxation Code is amended to read:

41074. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or authorized rules and regulations, a penalty of 25 percent of the amount of the determination shall be added thereto.

SEC. 82. Section 41076 of the Revenue and Taxation Code is amended to read:

41076. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the second calendar month following the reporting period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the second calendar month following the reporting period for which the amount is proposed to be determined.

SEC. 83. Section 41077 of the Revenue and Taxation Code is amended to read:

41077. In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be mailed within four months after written request therefor, in the form required by the department, by the fiduciary of the estate or trust or by any other person liable for the surcharge or any portion thereof.

SEC. 84. Section 41080 of the Revenue and Taxation Code is amended to read:

41080. If any person fails to make a return, the department shall make an estimate of the number of access lines or purchases of prepaid mobile telephony services that are subject to the surcharge. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the department's possession or may come into its possession. Upon the basis of this estimate the department shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period.

SEC. 85. Section 41081 of the Revenue and Taxation Code is amended to read:

41081. In making a determination the department may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SEC. 86. Section 41083 of the Revenue and Taxation Code is amended to read:

41083. If the failure of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the penalty provided in Section 41080.

SEC. 87. Section 41084 of the Revenue and Taxation Code is amended to read:

41084. Promptly after making its determination the department shall give to the person written notice of the estimate, determination, and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

SEC. 88. Section 41086 of the Revenue and Taxation Code is amended to read:

41086. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the department issues its order or decision upon the petition for redetermination.

SEC. 89. Section 41087 of the Revenue and Taxation Code is amended to read:

41087. If a petition for redetermination is filed within the 30-day period, the department shall reconsider the determination and, if the person has so requested in the person's petition, shall grant the person an oral hearing and shall give the person 10 days' written notice of the time and place of the hearing. The department may continue the hearing from time to time as may be necessary.

SEC. 90. Section 41088 of the Revenue and Taxation Code is amended to read:

41088. The department may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the department at or before the hearing. Unless the penalty imposed by Section 41074 or Section 41080 applies to the amount of the determination as originally made or as increased, the claim for increase shall be asserted within eight years after the last day of the second calendar month following the month for which the increase is asserted.

SEC. 91. Section 41089 of the Revenue and Taxation Code is amended to read:

41089. The order or decision of the department upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

SEC. 92. Section 41090 of the Revenue and Taxation Code is amended to read:

41090. All determinations made by the department under Article 3 or 4 of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

SEC. 93. Section 41095 of the Revenue and Taxation Code is amended to read:

41095. (a) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the department under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge in addition to the surcharge or amount of surcharge, plus interest at

the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 41052 or the due date established by the department in accordance with Section 41052.1, shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

SEC. 94. Section 41095.5 of the Revenue and Taxation Code is amended to read:

41095.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the surcharge was due until the date of payment, if all of the following occur:

(1) The payment of the surcharge was made one business day after the date the surcharge was due.

(2) The person was granted relief from all penalties that applied to that payment of the surcharge.

(3) The person files a request for a one-day adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For the purposes of this section, "department" means the California Department of Tax and Fee Administration.

(d) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, or a determination where no return has been filed.

(f) This section shall only apply to electronic payments of surcharges.

SEC. 95. Section 41096 of the Revenue and Taxation Code is amended to read:

41096. (a) If the department finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 41060, 41080, 41090, and 41095.

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the department a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(c) The department shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 96. Section 41097 of the Revenue and Taxation Code is amended to read:

41097. If the department finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 41054, 41060, 41082, and 41095.

Any person seeking to be relieved of the interest shall file with the department a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

SEC. 97. Section 41097.5 of the Revenue and Taxation Code is amended to read:

41097.5. (a) The department, in its discretion, may relieve all or any part of the interest imposed on a person by this part if the failure to pay the surcharge is due in whole or in part to an unreasonable error or delay by an employee of the department acting in the employee's official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

(c) Any person seeking relief under this section shall file with the department a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the department may require.

(d) The department may grant relief only for interest imposed on surcharge liabilities that arise during surcharge periods commencing on or after January 1, 2000.

SEC. 98. Section 41098 of the Revenue and Taxation Code is amended to read:

41098. (a) If the department finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the department, the person may be relieved of the surcharge imposed by this part and any penalty or interest added thereto.

(b) For purposes of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the department, only if the department finds that all of the following conditions are satisfied:

(1) The person requested in writing that the department advise the person whether a particular activity or transaction is subject to the surcharge under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The department responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to the surcharge, or stating the conditions under which the activity or transaction is subject to the surcharge.

(3) The liability for surcharges applied to a particular activity or transaction which occurred before either of the following:

(A) Before the department rescinded or modified the advice so given, by sending written notice to the person of rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the department's regulations, or a final decision of a court, which renders the department's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the department all of the following:

(1) A copy of the person's written request to the department and a copy of the department's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the department may require.

(d) Only the person making the written request shall be entitled to rely on the department's written advice to that person.

SEC. 99. Section 41099 of the Revenue and Taxation Code is amended to read:

41099. (a) Under regulations prescribed by the department, if:

(1) A surcharge liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of surcharge liability is attributable to one spouse; or any amount of the surcharge reported on a return was unpaid and the nonpayment of the reported surcharge liability is attributable to one spouse.

(2) The other spouse establishes that the other spouse did not know of, and had no reason to know of, that understatement or nonpayment.

(3) Taking into account whether the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in surcharge attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for the surcharge, including interest, penalties, and other amounts, to the extent that the liability is attributable to that understatement or nonpayment of the surcharge.

(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.

(c) This section shall apply to all calendar months, quarters, or years subject to the provisions of this part, but shall not apply to a calendar month, quarter, or year that is more than five years from the final date on the department-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.

(d) For purposes of paragraph (2) of subdivision (a), “reason to know” means whether a reasonably prudent person would have had reason to know of the understatement or nonpayment.

(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, “attributable to one spouse” may be determined by whether a spouse rendered substantial service as a service supplier for each access line subscribed by service users or a sellers collection from each prepaid

consumer's purchase of prepaid mobile telephony services, or an access line or purchase of prepaid mobile telephony services to which the understatement is attributable. If neither spouse rendered substantial services as a service supplier, seller, or as a service user, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

(f) Under procedures prescribed by the department, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for an unpaid surcharge or deficiency, or any portion of either, attributable to any item for which relief is not available under subdivision (a), the department may relieve the other spouse of that liability.

(g) For purposes of this section, registered domestic partners, as defined in Section 297 of the Family Code, have the same rights, protections, and benefits as provided by this section, and are subject to the same responsibilities, obligations, and duties as imposed by this section, as are granted to and imposed upon spouses.

(h) The relief provided by this section shall apply retroactively to liabilities arising prior to January 1, 2008.

SEC. 100. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. If the department determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department, certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid, and credit the excess amount collected or paid on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or their successors, administrators, or executors. Any proposed determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

Any overpayment of the surcharge by a service user to a service supplier or by a prepaid consumer to a seller who is required to collect the surcharge shall be credited or refunded by the state to

the service user. However, if the service supplier or seller has paid the amount to the department and establishes to the satisfaction of the department that it has not collected the amount from the service user or has refunded the amount to the service user, the overpayment may be credited or refunded by the state to the service supplier.

SEC. 101. Section 41101 of the Revenue and Taxation Code is amended to read:

41101. A refund shall not be approved by the department after three years from the last day of the second month following the close of the reporting period for which the overpayment was made, or, with respect to determinations made under Article 3 or 4 of Chapter 4 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the department within that period. A credit shall not be approved by the department after the expiration of that period unless a claim for credit is filed with the department within that period.

SEC. 102. Section 41101.1 of the Revenue and Taxation Code is amended to read:

41101.1. (a) The limitation period specified in Section 41101 shall be suspended during any period of a person's life that the person is financially disabled.

(b) (1) For purposes of subdivision (a), a person is financially disabled if the person is unable to manage the person's financial affairs by reason of medically determinable physical or mental impairment of the person that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A person shall not be considered to have an impairment unless proof of the existence thereof is furnished in the form and manner as the department may require.

(2) A person shall not be treated as financially disabled during any period that the person's spouse or any other person is authorized to act on behalf of the person in financial matters.

(c) This section applies to periods of disability commencing before, on, or after the effective date of the act adding this section, but does not apply to any claim for refund that (without regard to this section) is barred by the operation of rule of law, including res judicata, as of the effective date of the act adding this section.

SEC. 103. Section 41101.2 of the Revenue and Taxation Code is amended to read:

41101.2. Notwithstanding Section 41101, a refund of an overpayment of any surcharge, penalty, or interest collected by the department by means of levy, through the use of liens, or by other enforcement procedures, shall be approved if a claim for a refund is filed within three years of the date of an overpayment.

SEC. 104. Section 41104 of the Revenue and Taxation Code is amended to read:

41104. Within 30 days after disallowing any claim in whole or in part the department shall give notice of its action to the claimant in the manner prescribed for service of notice of a deficiency determination.

SEC. 105. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of surcharge at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 106. Section 41106 of the Revenue and Taxation Code is amended to read:

41106. (a) If the department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

(b) If any person who has filed a claim for refund requests the department to defer action on the claim, the department, as a condition to deferring action, may require the claimant to waive

interest for the period during which the person requests the department to defer action on the claim.

SEC. 107. Section 41107 of the Revenue and Taxation Code is amended to read:

41107. If any amount has been illegally determined either by the person filing the return or by the department, the department shall set forth that fact in its records, certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made, and authorize the cancellation of the amount upon the records of the department. Any proposed determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 108. Section 41110 of the Revenue and Taxation Code is amended to read:

41110. Within 90 days after the mailing of the notice of the department's action upon a claim filed pursuant to Article 1 of this chapter, the claimant may bring an action against the department on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

SEC. 109. Section 41111 of the Revenue and Taxation Code is amended to read:

41111. If the department fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

SEC. 110. Section 41113 of the Revenue and Taxation Code is amended to read:

41113. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the

date of the refund warrant by not more than 30 days, the date to be determined by the department.

SEC. 111. Section 41114 of the Revenue and Taxation Code is amended to read:

41114. A judgment shall not be rendered in favor of the plaintiff in any action brought against the department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

SEC. 112. Section 41114.1 of the Revenue and Taxation Code is amended to read:

41114.1. (a) The department may recover any refund or part thereof that is erroneously made, and any credit or part thereof that is erroneously allowed, in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

(b) As an alternative to subdivision (a), the department may recover any refund or part thereof that is erroneously made, and any credit or part thereof that is erroneously allowed. In recovering any erroneous refund or credit, the department may, in its discretion, issue a deficiency determination in accordance with Article 3 (commencing with Section 41070) of Chapter 4. Except in the case of fraud, the deficiency determination shall be made by the department within three years from the date of the Controller's warrant or date of credit.

SEC. 113. Section 41115 of the Revenue and Taxation Code is amended to read:

41115. At any time within 10 years after any surcharge or any amount of surcharge required to be collected becomes due and payable, and at any time after any amount determined under Article 3 (commencing with Section 41070), Article 4 (commencing with Section 41080) or Article 5 (commencing with Section 41085) of Chapter 4 of this part becomes due and payable, the department may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of California to collect the amount delinquent together with penalties.

SEC. 114. Section 41118 of the Revenue and Taxation Code is amended to read:

41118. In the action, a certificate by the department showing the delinquency shall be prima facie evidence of the determination

of the surcharge or the amount of surcharge, of the delinquency of the amounts set forth, and of the compliance by the department with all the provisions of this part in relation to the computation and determination of the amounts.

SEC. 115. Section 41119 of the Revenue and Taxation Code is amended to read:

41119. In any action brought under this part, process may be served according to the Code of Civil Procedure and the Civil Code of this state or may be served upon any agent or clerk in this state employed by a service supplier or seller in a place of business maintained by the service supplier or seller in this state. In the latter case a copy of the process shall forthwith be sent by registered mail to the service supplier or seller at its principal or home office.

SEC. 116. Section 41120 of the Revenue and Taxation Code is amended to read:

41120. If any person is delinquent in the payment of the amount required to be paid by that person or if a determination has been made against that person that remains unpaid, the department may, not later than five years after the payment became delinquent, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or any person against whom a determination has been made that remains unpaid or owing any debts to the delinquent or that person. In the case of any state officer, department, or agency, the notice shall be given to that officer, department, or agency prior to the time it presents the claim of the delinquent to the Controller.

SEC. 117. Section 41121 of the Revenue and Taxation Code is amended to read:

41121. After receiving the notice the person so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the department consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier.

SEC. 118. Section 41122 of the Revenue and Taxation Code is amended to read:

41122. All persons so notified shall forthwith after receipt of the notice advise the department of all credits, other personal property, or debts in their possession, under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest, and penalty due from the person.

SEC. 119. Section 41123.5 of the Revenue and Taxation Code is amended to read:

41123.5. (a) The department may, by notice of levy served personally or by first-class mail, require all persons, other than a service supplier, having in their possession, or under their control, any payments, credits other than payments, or other personal property belonging to a service user or other person liable for any amount under this part to withhold from these credits or other personal property the amount of any surcharge, interest, or penalties due from the service user or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the department at the time it may designate. The notice of levy shall have the same effect as a levy pursuant to a writ of execution except for the continuing effect of the levy, as provided in subdivision (b).

(b) The person served shall continue to withhold pursuant to the notice of levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The sum of both of the following:

(A) The amount of the payments, credits other than payments, or personal property described above and under the person's possession or control when the notice of levy is served on the person.

(B) The amount of each payment that becomes due following service of the notice of levy on the person and prior to the expiration of the levy.

(d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, or mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the service user or other person liable for the surcharge.

(3) Any other payments or credits due or becoming due the service user or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the service user and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 120. Section 41123.6 of the Revenue and Taxation Code is amended to read:

41123.6. (a) Notwithstanding Article 7 (commencing with Section 706.151) of Chapter 5 of Title 9 of Part 2 of the Code of Civil Procedure, if the department determines upon receiving information from any person liable for any amount under this part that the person's employer withheld earnings for surcharges pursuant to Section 41123.5 and failed to remit the withheld earnings to the department, the employer shall be liable for the amount not remitted. The department's determination shall be

based on payroll documents or other substantiating evidence furnished by the person liable for the surcharge.

(b) Upon its determination, the department shall mail notice to the employer at its last known address that upon failure to remit the withheld earnings to the department within 15 days of the date of its notice to the employer, the employer shall be liable for that amount which was withheld and not remitted.

(c) If the employer fails to remit the amount withheld to the department upon notice, that amount for which the employer is liable shall be determined, collected, and paid as though it were a surcharge deficiency. The amount may be assessed at any time prior to seven years from the first day that the unremitted amount, in the aggregate, was first withheld. Interest shall accrue on that amount from the first day that the unremitted amount, in the aggregate, was first withheld.

(d) When the determination against the employer is final and due and payable, the person's account shall be immediately credited with an amount equal to that determined amount as though it were a payment received by the department on the first date that the unremitted amount, in the aggregate, was first withheld by the employer.

(e) Collection against the person liable for the surcharge is stayed for both the following amount and period:

(1) An amount equal to the amount determined by the department under subdivision (a).

(2) The earlier of the time the credit is applied to the person's account pursuant to subdivision (d) or the determination against the employer is withdrawn or revised and the person is notified by the department thereof.

(f) If under this section, an amount that was withheld and not remitted to the department is final and due and payable by the employer and credited to the person's account, this remedy shall be the exclusive remedy for the person to recover that amount from the employer.

(g) This section shall apply to determinations made by the department on or after the effective date of the act adding this section.

SEC. 121. Section 41124.1 of the Revenue and Taxation Code is amended to read:

41124.1. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the department before the date the return is delinquent, the date the return would have been delinquent.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the department.

(3) For all other amounts, the date the assessment is final.

SEC. 122. Section 41125 of the Revenue and Taxation Code is amended to read:

41125. At any time within five years after any person is delinquent in the payment of any amount required to be paid under this part the department or its authorized representative may issue a warrant for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff or marshal and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and a sale pursuant to a writ of execution.

SEC. 123. Section 41126 of the Revenue and Taxation Code is amended to read:

41126. The department shall pay the sheriff or marshal upon the completion of that person's services pursuant to a warrant, the same fees, commissions, and expenses for that person's services as are provided by law for similar services pursuant to a writ of execution. The department, and not the court, shall approve the fees for publication in a newspaper.

SEC. 124. Section 41127.5 of the Revenue and Taxation Code is amended to read:

41127.5. The department shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or

registration number under this part, the applicant furnishes to the department a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 125. Section 41127.6 of the Revenue and Taxation Code is amended to read:

41127.6. (a) The department may, in its discretion, enter into a written installment payment agreement with a person for the payment of any surcharges due, together with interest thereon and any applicable penalties, in installments over an agreed period. With mutual consent, the department and the taxpayer may alter or modify the agreement.

(b) Upon failure of a person to fully comply with the terms of an installment payment agreement with the department, the department may terminate the agreement by mailing a notice of termination to the person. The notice shall include an explanation of the basis for the termination and inform the person of the person's right to request an administrative review of the termination. Fifteen days after the mailing of the notice, the installment payment agreement shall be void, and the total amount of the surcharge, interest, and penalties due shall be immediately payable.

(c) The department shall establish procedures for an administrative review for persons requesting that review whose installment payment agreements are terminated under subdivision (b). The collection of surcharges, interest, and penalties that are the subject of the terminated installment payment agreement may not be stayed during this administrative review process.

(d) Subdivision (b) shall not apply to any case where the department finds collection of the surcharge to be in jeopardy.

(e) Except in the case of fraud, if an installment payment agreement is entered into within 45 days from the date on which the department's notice of determination or redetermination becomes final, and the person complies with the terms of the installment payment agreement, the department shall relieve the penalty imposed pursuant to Section 41090.

SEC. 126. Section 41127.7 of the Revenue and Taxation Code is amended to read:

41127.7. The department, beginning no later than January 1, 2001, shall provide each taxpayer who has an installment payment agreement in effect under Section 41127.6 an annual statement

setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

SEC. 127. Section 41127.8 of the Revenue and Taxation Code is amended to read:

41127.8. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of surcharge, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the department's costs for collection, as reasonably determined by the department. The collection cost recovery fee shall be imposed only if the department has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other surcharge imposed by this part.

(d) (1) If the department finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the department a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other surcharge imposed by this part.

SEC. 128. Section 41128 of the Revenue and Taxation Code is amended to read:

41128. The department shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The department

shall not prescribe, adopt, or enforce any rule or regulation that has the effect, directly or indirectly, of altering the terms and conditions of service of a service supplier serving the general public, other than the imposition of the surcharge.

SEC. 129. Section 41131 of the Revenue and Taxation Code is amended to read:

41131. The department shall have full access to records of the Public Utilities Commission, and any political subdivision or public agency of this state that regulates, operates, or owns a public utility, which pertain to the furnishing of telephone communication services in this state.

SEC. 130. Section 41133 of the Revenue and Taxation Code is amended to read:

41133. (a) The department shall determine which service supplier's or seller's accounts are eligible for the managed audit program in a manner that is consistent with the efficient use of its auditing resources and the maximum effectiveness of the program.

(b) A service supplier or seller is not required to participate in the managed audit program.

SEC. 131. Section 41133.1 of the Revenue and Taxation Code is amended to read:

41133.1. A service supplier's or seller's account is eligible for the managed audit program only if the service supplier or seller meets all of the following criteria:

(a) The service supplier's or seller's business involves few or no statutory exemptions.

(b) The service supplier's or seller's business involves a single or small number of clearly defined taxability issues.

(c) The service supplier or seller pays a surcharge pursuant to this part and agrees to participate in the managed audit program.

(d) The service supplier or seller has the resources to comply with the managed audit instructions provided by the department.

SEC. 132. Section 41133.2 of the Revenue and Taxation Code is amended to read:

41133.2. (a) If the department selects a service supplier's or seller's account for a managed audit, all of the following apply:

(1) The department shall identify all of the following:

(A) The audit period covered by the managed audit.

(B) The types of transactions covered by the managed audit.

(C) The specific procedures that the service supplier or seller is to follow in determining any liability.

(D) The records to be reviewed by the service supplier or seller.

(E) The manner in which the types of transactions are to be scheduled for review.

(F) The time period for completion of the managed audit.

(G) The time period for the payment of the liability and interest.

(H) Any other criteria that the department may require for completion of the managed audit.

(2) The service supplier or seller shall:

(A) Examine its records and returns to determine if it has any unreported surcharge liability for the audit period.

(B) Make available to the department for verification all computations and records and returns examined pursuant to subparagraph (A).

(b) The information provided by the service supplier or seller pursuant to paragraph (2) of subdivision (a) is the same information that is required for the completion of any other audit that the department may conduct.

SEC. 133. Section 41133.3 of the Revenue and Taxation Code is amended to read:

41133.3. This article does not limit the department's authority to inspect and audit all records and returns of a service supplier or seller under Section 41130.

SEC. 134. Section 41133.4 of the Revenue and Taxation Code is amended to read:

41133.4. Upon completion of the managed audit and verification by the department, interest on any unpaid liability shall be computed at one-half the rate that would otherwise be imposed for liabilities covered by the audit period. Payment of the liabilities and interest shall be made within the time period specified by the department. If the requirements for the managed audit are not satisfied, the department may proceed to examine the records of the service supplier or seller in a manner to be determined by the department under law.

SEC. 135. Section 41143 of the Revenue and Taxation Code is amended to read:

41143. Any person who fails or refuses to file a return or report required to be made or who fails or refuses to furnish a supplemental report or other data required by the department, or

who renders a false or fraudulent report is guilty of a misdemeanor and may be punished by a fine not exceeding five hundred dollars ($500) for each offense.

SEC. 136. Section 41144 of the Revenue and Taxation Code is amended to read:

41144. A certificate by the department or an employee of the department stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing of personal service in accordance with any requirement of this part for the giving of notice. Unless otherwise specifically required, any notice required by this part to be mailed or served may be given by mailing or personal service in the manner provided for giving notice of a deficiency determination.

SEC. 137. Section 41150 of the Revenue and Taxation Code is amended to read:

41150. The Legislature hereby declares and finds that to enable public agencies to implement "911" emergency phone systems required by the provisions of Chapter 1005 of the 1972 Regular Session (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code) it is necessary that a surcharge be imposed upon each access line in the state and upon the purchase of prepaid mobile telephony services in this state for access to the 911 emergency communication system. This act will provide funding for basic 911, as defined in Section 41136, and the technology and interfaces needed to deliver 911 voice and data information from the 911 caller to the emergency responder and the subsequent technologies, and interfaces needed to send information, including, but not limited to, alerts and warnings, to potential 911 callers. In addition, this part will provide funding for incremental costs.

SEC. 138. Section 41160 of the Revenue and Taxation Code is amended to read:

41160. The department shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

SEC. 139. Section 41161 of the Revenue and Taxation Code is amended to read:

41161. (a) The department shall establish the position of the Taxpayers' Rights Advocate. The advocate or that person's

designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by department employees and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the director of the department.

SEC. 140. Section 41162 of the Revenue and Taxation Code is amended to read:

41162. (a) The department shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the department.

(2) Department audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.

(2) Participation in seminars and similar programs organized by federal, state, and local agencies.

(3) Revision of taxpayer educational materials currently produced by the department that explain the most common areas of taxpayer nonconformance in simplified terms.

(4) Implementation of a continuing education program for audit and compliance personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

SEC. 141. Section 41163 of the Revenue and Taxation Code is repealed.

SEC. 142. Section 41164 of the Revenue and Taxation Code is amended to read:

41164. The department shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the department and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice

of proposed additional surcharges, any subsequent notice of surcharge due, or other substantive notices. Additionally, the department shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

SEC. 143. Section 41165 of the Revenue and Taxation Code is amended to read:

41165. (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:

(1) To evaluate individual officers or employees.

(2) To impose or suggest production quotas or goals, other than quotas or goals with respect to accounts receivable.

(b) The department shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).

(c) This section shall not prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

SEC. 144. Section 41166 of the Revenue and Taxation Code is amended to read:

41166. The department shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to that person's contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

SEC. 145. Section 41167 of the Revenue and Taxation Code is amended to read:

41167. The department shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

SEC. 146. Section 41168 of the Revenue and Taxation Code is amended to read:

41168. Procedures of the department, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a department office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that the taxpayer has a right to have present at the conference an attorney, accountant, or other designated agent.

SEC. 147. Section 41169 of the Revenue and Taxation Code is amended to read:

41169. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the department if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the department within one year of the date the decision of the department becomes final.

(2) The department, in its sole discretion, finds that the action taken by the department staff was unreasonable.

(3) The department decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, in an amount determined by the department in its sole discretion.

(b) To determine whether the department staff has been unreasonable, the department shall consider whether the department staff has established that its position was substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of the notice of determination, jeopardy determination, or a claim for refund.

(2) If the department finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) Any proposed award by the department pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.

(e) The amendments to this section by the act adding this subdivision shall be operative for claims filed on or after January 1, 2000.

SEC. 148. Section 41170 of the Revenue and Taxation Code is amended to read:

41170. (a) An officer or employee of the department acting in connection with any law administered by the department shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include emergency telephone users surcharge violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

SEC. 149. Section 41172.5 of the Revenue and Taxation Code is amended to read:

41172.5. (a) If any property has been levied upon, the property or the proceeds from the sale of the property shall be returned to the taxpayer if the department determines any one of the following:

(1) The levy on the property was not in accordance with the law.

(2) The taxpayer has entered into and is in compliance with an installment payment agreement pursuant to Section 41127.5 to satisfy the surcharge liability for which the levy was imposed, unless that or another agreement allows for the levy.

(3) The return of the property will facilitate the collection of the surcharge liability or will be in the best interest of the state and the taxpayer.

(b) Property returned under paragraphs (1) and (2) of subdivision (a) is subject to the provisions of Section 41174.

SEC. 150. Section 41174 of the Revenue and Taxation Code is amended to read:

41174. (a) A taxpayer may file a claim with the department for reimbursement of bank charges and any other reasonable

third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the department. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the department that shall be in a form as may be prescribed by the department. In order for the department to grant a claim, the department shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by department error.

(2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the department and provided the department with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the department for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date the bank and third-party charges were incurred by the taxpayer. Within 30 days from the date the claim is received, the department shall respond to the claim. If the department denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 151. Section 41175 of the Revenue and Taxation Code is amended to read:

41175. (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the department shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the department for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or

recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) If the department determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the department shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(c) When the department releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

(d) The department may release or subordinate a lien if the department determines that the release or subordination will facilitate the collection of the surcharge liability or will be in the best interest of the state and the taxpayer.

SEC. 152. Section 41176 of the Revenue and Taxation Code is amended to read:

41176. (a) If any officer or employee of the department recklessly disregards department-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the state in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the state, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the state.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, including the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff that contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the department and shall be collected as a surcharge imposed under this part.

SEC. 153. Section 43155.5 of the Revenue and Taxation Code is amended to read:

43155.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:

(1) The payment of tax or the prepayment was made one business day after the date the tax or prepayment was due.

(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "department" means the California Department of Tax and Fee Administration.

(d) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(e) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no report or return has been filed, or a jeopardy determination issued by the department.

(f) This section shall only apply to electronic payments or prepayments of taxes.

SEC. 154. Section 43449 of the Revenue and Taxation Code is amended to read:

43449. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 155. Section 43651 of the Revenue and Taxation Code is amended to read:

43651. (a) The California Department of Tax and Fee Administration shall provide to the State Department of Public Health or the Department of Toxic Substances Control any and all information obtained under this part relating to the fee collected for that agency.

(b) The Department of Toxic Substances Control and the California Department of Tax and Fee Administration may utilize any information obtained pursuant to this part to develop data on the generation or disposal of hazardous or extremely hazardous waste within the state. Notwithstanding any other provision of this section, the Department of Toxic Substances Control may make waste generation and disposal data available to the public.

(c) It shall be unlawful for the California Department of Tax and Fee Administration, the State Department of Public Health, the Department of Toxic Substances Control, or any person having an administrative duty under this part to make known, in any manner whatever, the name, business affairs, operations, or any other information pertaining to a taxpayer or to permit any return or report, or copy thereof, or any fee billing or book containing any abstract or particulars thereof, to be seen or examined by any person not expressly authorized by subdivision (a) and this subdivision. However, the Governor may, by general or special order, authorize examination of the records maintained by the California Department of Tax and Fee Administration under this part by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(d) Notwithstanding subdivision (c), the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the

determination of any unpaid tax or the amount of taxes, interest, or penalties required to be collected or assessed.

(e) Nothing in this section shall be construed as limiting or increasing the public's access to information on any aspect of hazardous or extremely hazardous waste generation or disposal collected pursuant to other state or local laws, regulations, or ordinances.

(f) Notwithstanding subdivision (c), a feepayer may be given otherwise confidential information, subject to the limitations provided in the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), about another feepayer to the extent the information is necessary to establish that the feepayer is responsible for paying the Childhood Lead Poisoning Prevention Fee imposed pursuant to Chapter 5 (commencing with Section 105275) of Division 103 of the Health and Safety Code due to their historical association with that feepayer.

SEC. 156. Section 44001 of the Revenue and Taxation Code is amended to read:

44001. For purposes of this part, "department" means the California Department of Tax and Fee Administration.

SEC. 157. Section 44003 of the Revenue and Taxation Code is amended to read:

44003. The fee imposed on owners or operators of vessels pursuant to Section 71215 of the Public Resources Code shall be administered and collected by the department in accordance with this part and Part 30 (commencing with Section 55001) of Division 2.

SEC. 158. Section 44004 of the Revenue and Taxation Code is amended to read:

44004. Every person, as defined in Section 55002, who is subject to the fees imposed by Chapter 4 (commencing with Section 71215) of Division 36 of the Public Resources Code shall register with the department on forms or in a manner provided by the department.

SEC. 159. Section 44005 of the Revenue and Taxation Code is amended to read:

44005. Except as authorized in Section 44006, the fee imposed on owners or operators of vessels pursuant to Section 71215 of the Public Resources Code is due and payable to the department

30 days from the date of assessment by the department or the department's agent.

SEC. 160. Section 44006 of the Revenue and Taxation Code is amended to read:

44006. In order to facilitate the administration of this part and in lieu of issuing an assessment for the fee, the department may authorize the feepayer to file a return for a monthly, quarterly, or other period set by the department. The return shall identify each vessel voyage and each port of call in California for which a ballast water report is required to be filed with the State Lands Commission, pursuant to Section 71205 of the Public Resources Code, during the period covered by the return. If the department authorizes the filing of a return, the fees must be paid to the department by the end of the calendar month following the end of the return reporting period.

SEC. 161. Section 44007 of the Revenue and Taxation Code is amended to read:

44007. All fees, interest, and penalties imposed and all fees required to be paid to the state pursuant to Section 71215 of the Public Resources Code shall be paid in the form of remittances payable to the department. The department shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Marine Invasive Species Control Fund.

SEC. 162. Section 45153.5 of the Revenue and Taxation Code is amended to read:

45153.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

(1) The payment of the fee was made one business day after the date the fee was due.

(2) The person was granted relief from all penalties that applied to that fee payment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum, as defined in

subdivision (a) of Section 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section does not apply to any payment made pursuant to a deficiency determination, a determination where a return has not been filed, or a jeopardy determination issued by the department.

(e) This section only applies to electronic payments of fees.

SEC. 163. Section 45610 of the Revenue and Taxation Code is amended to read:

45610. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of fee, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other fee imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other fee imposed by this part.

SEC. 164. Section 46154.5 of the Revenue and Taxation Code is amended to read:

46154.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

(1) The payment of the fee was made one business day after the date the fee was due.

(2) The person was granted relief from all penalties that applied to that fee payment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments of fees.

SEC. 165. Section 46466 of the Revenue and Taxation Code is amended to read:

46466. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of fee, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee

Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other fee imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other fee imposed by this part.

SEC. 166. Section 50112.1 of the Revenue and Taxation Code is amended to read:

50112.1. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

(1) The payment of the fee was made one business day after the date the fee was due.

(2) The person was granted relief from all penalties that applied to that fee payment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum, as defined in subdivision (a) of Section 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section does not apply to any payment made pursuant to a deficiency determination, a determination where a return has not been filed, or a jeopardy determination issued by the department.

(e) This section only applies to electronic payments of fees.

SEC. 167. Section 50138.8 of the Revenue and Taxation Code is amended to read:

50138.8. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of fee, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other fee imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and

Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other fee imposed by this part.

SEC. 168. Section 55003 of the Revenue and Taxation Code is amended to read:

55003. "Department" means the California Department of Tax and Fee Administration.

SEC. 169. Section 55042.5 of the Revenue and Taxation Code is amended to read:

55042.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the fee was due until the date of payment, if all of the following occur:

(1) The payment of the fee was made one business day after the date the fee was due.

(2) The person was granted relief from all penalties that applied to that fee payment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum, as defined in subdivision (a) of Section 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section does not apply to any payment made pursuant to a deficiency determination, a determination where a return has not been filed, or a jeopardy determination issued by the department.

(e) This section only applies to electronic payments of fees.

SEC. 170. Section 55211 of the Revenue and Taxation Code is amended to read:

55211. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of fee, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other fee imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other fee imposed by this part.

SEC. 171. Section 55381 of the Revenue and Taxation Code is amended to read:

55381. (a) If the department collects a fee pursuant to this part on behalf of a state agency or pursuant to an interagency agreement with a state agency, or if the fee collected pursuant to this part is used to fund a program administered by a state agency, the

department shall provide that state agency with any and all information obtained under this part relating to that fee.

(b) It shall be unlawful for the department, the state agency for which the department collects the fee, or any person having an administrative duty under this part to make known, in any manner whatsoever, the business affairs, operations, or any other information pertaining to a feepayer that was submitted to the department in a report or return required by this part, or to permit any report or copy thereof to be seen or examined by any person not expressly authorized by subdivision (a) and this subdivision. However, the Governor may, by general or special order, authorize examination of the records maintained by the department under this part by other state officers, by officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(c) Notwithstanding subdivision (b), the successors, receivers, trustees, executors, administrators, assignees, and guarantors of a feepayer, if directly interested, may be given information regarding the determination of any unpaid fees or the amount of the fees, interest, or penalties required to be collected or assessed.

(d) Notwithstanding subdivision (b), information regarding the determination of any unpaid fees or the amount of the fees, interest, or penalties required to be collected or assessed may be disclosed to any agent of a vessel owner or operator subject to the fees imposed by Chapter 4 (commencing with Section 71215) of Division 36 of the Public Resources Code.

SEC. 172. Section 60207.5 of the Revenue and Taxation Code is amended to read:

60207.5. (a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax was due until the date of payment, if all of the following occur:

(1) The payment of tax was made one business day after the date the tax was due.

(2) The person was granted relief from all penalties that applied to that payment of tax.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum, as defined in subdivision (a) of Section 6591.5, determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section does not apply to any payment made pursuant to a deficiency determination, a determination where a return has not been filed, or a jeopardy determination issued by the department.

(e) This section only applies to electronic payments of taxes.

SEC. 173. Section 60495 of the Revenue and Taxation Code is amended to read:

60495. (a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than equal to the California Department of Tax and Fee Administration's costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.

(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.

(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.

(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall

be relieved of the collection cost recovery fee provided by this section.

(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.

(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

SEC. 174. The Legislature finds and declares that the amendments to Section 43651 of the Revenue and Taxation Code made by this act impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Sensitive information of California taxpayers should be adequately protected from disclosure during the process of the assessment and collection of taxes to protect privacy and increase compliance.

SEC. 175. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other law.

Approved _____, 2021

_____

Governor