A REVIEW OF SIGNIFICANT 2006 CALIFORNIA TAX LEGISLATION
By Chris Micheli

(Following are descriptions of 30 tax policy bills (20 Assembly and 10 Senate measures) that were passed and signed into law during 2006, and six measures that were vetoed.)

**ASSEMBLY BILLS**

*AB 339 (Harman) – Chapter 495*
Existing law sets forth rules of organization and governance for limited partnerships. This bill revises and recasts these provisions by enacting the Limited Partnership Act of 2008 and repeals the existing provisions for limited partnerships on January 1, 2010.

*AB 970 (Torrico) – Chapter 343*
Existing income tax laws authorize the Franchise Tax Board to provide for the filing of a group return for electing nonresident partners, as specified. This bill authorizes the board to provide for the filing of a group return for electing nonresident directors of a corporation, as specified, and to adjust the income of those taxpayers to properly reflect income.

*AB 1282 (Mullin) – Chapter 712*
The existing Personal Income Tax and Corporation Tax Law provide tax credits for startup expenses for child care programs or constructing a child care facility, costs for child care information and referral services, and costs paid or incurred for contributions to a qualified care plan. Under existing law, these credits are only available for certain taxable years beginning before January 1, 2007. This bill extends the credits to taxable years beginning before January 1, 2012. This bill also requires the Franchise Tax Board to report to the Legislature on the effectiveness of these credits.

*AB 1418 (Horton) – Chapter 716*
The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. The sales taxes due under these provisions are generally the obligation of the seller of the personal property. The seller must file a return with the State Board of Equalization and pay all taxes due.

This bill requires the board to make publicly available each quarter a list of the 250 largest tax delinquencies in excess of $100,000. The quarterly list will contain specified identifying information about the delinquencies. This bill requires the board, prior to placing a person's name on the list, to provide written notice that the person's name will appear on the list if the delinquency is not satisfied. The board is required to remove certain delinquencies that meet specified criteria within 5 business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated. This bill also provides that, if a delinquency has been removed pursuant to a resolution of the delinquency, but the terms of the
resolution are not complied with, the board shall list the tax delinquency without providing prior written notice.

The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to administer and collect taxes imposed by those laws and require that those taxes be paid at the time and place. This bill requires the Franchise Tax Board to make publicly available each calendar year a list of the 250 largest tax delinquencies in excess of $100,000. The annual list will contain specified identifying information about the delinquencies. This bill requires the Franchise Tax Board, prior to placing a person's name on the list, to provide written notice that the person's name will appear on the list if the delinquency is not satisfied. The Franchise Tax Board is required to remove certain delinquencies that meet specified criteria within 5 business days, including, among others, those where payment arrangements have been made or a bankruptcy proceeding has been initiated.

AB 1749 (Horton) – Chapter 501

The California Cigarette and Tobacco Products Licensing Act of 2003 provides, until January 1, 2010, for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California.

This bill requires manufacturers and importers of specified tobacco products engaged in business in this state to obtain and maintain a license. This bill requires that the provisions related to obtaining and maintaining a manufacturers and importers license become operative May 1, 2007. This bill requires these manufacturers or importers to provide the board with specified information, submit a license application to the board pay a one-time license fee of $2,000 or $10,000, and submit a monthly report to the board providing information regarding sales of tobacco products, including the wholesale cost of the tobacco products, subject to suspension or revocation of the license.

This bill provides that the information provided to the board is confidential and shall not be disclosed to the public, except in specified situations. Additionally, this bill provides that the information and records provided to the board are not a public record, and makes findings demonstrating the interest protected by that limitation and the need for protecting that interest. This bill requires an applicant to verify the accuracy of the application and to affirm that the applicant has not been convicted of a felony and has not and will not violate or cause or permit to be violated the licensing requirement, subject to the imposition of criminal penalties as a misdemeanor.

Existing law defines an "importer" as any purchaser in the United States of cigarettes manufactured outside of the United States. This bill also redefines "importer" to be any purchaser for resale in the United States of cigarettes or tobacco products manufactured outside of the United States for the purpose of making a first sale or distributing within the United States.

The California Cigarette and Tobacco Products Licensing Act of 2003 prohibits manufacturers from selling cigarettes to distributors, wholesalers, importers, retailers, or any other person who is not licensed, as specified. The act further prohibits retailers, distributors, wholesalers, or importers from purchasing packages of cigarettes from any person unless he or she is in compliance with these licensure requirements. A violation of any of these provisions is a misdemeanor.
This bill expands the above prohibitions by also providing that a manufacturer or importer shall not sell tobacco products to retailers, distributors, wholesalers, or any other person who is not licensed, as provided, and would prohibit a retailer, distributor, or wholesaler from purchasing packages of cigarettes or tobacco products from any person who is not licensed or whose license has been suspended or revoked. This bill provides that a manufacturer or importer who uses the information provided on the board's Web site to determine a person's licensing status is presumed to be in compliance with these provisions. This bill provides that these provisions shall become operative May 1, 2007.

The act, in addition to providing for the licensing and regulation of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, prohibits a manufacturer, distributor, wholesaler, importer, retailer, or any other person from selling counterfeit cigarette and tobacco products and provides that a violation of that prohibition is a crime. The act imposes specified fines or imprisonment for possessing, selling, or buying false or fraudulent cigarette tax stamps. The act also requires manufacturers and importers of cigarette products that provide those products to distributors or wholesalers to pay the board a fee for cigarettes sold in this state. Under existing law, the act is repealed, by its own terms, January 1, 2010. This bill deletes the repeal date specified in current law, extending indefinitely the operation of the California Cigarette and Tobacco Products Licensing Act of 2003.

The California Cigarette Fire Safety and Firefighter Protection Act prohibits the sale of cigarettes, as defined, unless the manufacturer of those cigarettes certifies to the State Fire Marshal that the cigarettes they manufacture comply with specified provisions. This bill would provide that, for the purposes of the California Cigarette Fire Safety and Firefighter Protection Act, the definition of a cigarette does not include a little cigar.

Existing law regulates the distribution and sales of various types of tobacco products in the state, and specifies civil and criminal sanctions for violations of that regulatory scheme. Existing law prohibits any person from selling, giving, or furnishing specified tobacco products to a person under the age of 18 years. Existing law makes a violation of this prohibition a misdemeanor or makes that person subject to civil action. This bill expands this prohibition to include tobacco products commonly referred to as "blunt wraps," as defined, and thus impose a state-mandated local program by changing the definition of an existing crime. This bill clarifies that persons who violate this prohibition are subject to both criminal and civil liability.

Existing law prohibits specific types of displays of tobacco paraphernalia and products, subject to specified civil penalties. Existing law also requires specified labels on retail packages of cigars. This bill prohibits the self-service display of blunt wraps, as provided. This bill states the intent of the Legislature that all manufacturers or importers of blunt wraps place, or cause to be placed, a specified label on retail packages of blunt wraps, as required by federal law.

Existing law requires the State Board of Equalization to administer various taxes and fees, including taxes with respect to cigarettes and tobacco products, alcoholic beverages, motor vehicle fuel, and diesel fuel, among others. Existing law authorizes, until January 1, 2010, persons designated by the Executive Director of the State Board of Equalization to exercise the arrest powers of a peace officer in the enforcement of the taxes and fees administered by the State Board of Equalization. This bill deletes the
repeal date specified in existing law, extending the ability of designated persons to exercise the specified arrest powers indefinitely.

Existing law establishes procedures under the Cigarette and Tobacco Products Tax Law for imposing taxes on sellers of black-market cigarettes and tobacco products, and procedures for the seizure and sale of property secured by liens for delinquencies under the Cigarette and Tobacco Products Tax Law. Existing law repeals these provisions, effective January 1, 2010. This bill deletes the repeal date specified in current law, extending the authorization for these procedures indefinitely.

The Cigarette and Tobacco Products Tax Law authorizes, until January 1, 2010, employees of the State Board of Equalization, under specified conditions, to enter and inspect a building, facility, site, or place, as described, where cigarettes or tobacco products are sold, produced, or stored, where there is evidence of tax evasion, or where there is failure to comply with the Master Settlement Agreement, a settlement entered into by states' attorneys general and various tobacco product manufacturers that provides for the allocation of moneys to the states and certain territories. Refusal of the inspection is subject to penalty. This bill deletes the repeal date of this authorization, thereby extending the ability of specified board employees to enter and inspect the locations under the specific circumstances indefinitely.

The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. That law requires a tax imposed by that law, with respect to distributions of cigarettes, to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold. That law prohibits the false or fraudulent making, altering, reuse, or counterfeiting of cigarette tax stamps or meter impressions by providing that a violation of that prohibition is a felony subject to imprisonment as specified, or to a fine of not less than $1,000 and not more than $10,000, or to both fine and imprisonment. That law prohibits the sale of unstamped or unmetered cigarettes, the violation of which is punishable by a fine of up to $1,000, imprisonment in a county jail for not more than one year, or by both fine and imprisonment. That law authorizes, until January 1, 2010, the seizure and destruction of counterfeit cigarettes or tobacco products, as defined, and imposes misdemeanor punishment on the sale or possession thereof. That law imposes specified fines or imprisonment, or both, on a transporter who transports 40,000 or more cigarettes or tobacco products with a value of $5,000 or more with the intent to defeat or evade the taxes imposed by that law under described conditions.

This bill deletes the repeal date and extends authorization for the seizure and destruction of counterfeit cigarettes or tobacco products and for the imposition of a misdemeanor for the sale and possession thereof. This bill increases the fine for the sale of unstamped or unmetered cigarettes to $25,000. This bill also increases the fine imposed for falsely or fraudulently making a cigarette tax stamp or meter impression to $25,000, and would increase the fine imposed on a transporter of cigarettes to $25,000, for deposit into specified funds and accounts.

Existing law requires all distributors of cigarette and tobacco products that are required to be licensed by the State Board of Equalization to furnish a $1,000 security deposit. Existing law, beginning January 1, 2007, requires a distributor, that defers payments for stamps or meter register settings and elects to make those payments on a
monthly or a twice-monthly basis, to furnish a security deposit of at least 70% of, or 50% of, respectively, but not more than twice the amount of, stamps and meter register settings, for which payment is deferred.

This bill provides that for a distributor who elects to make payments on a weekly basis, as specified, the amount of the security deposit would be 25% of the amount of, but not more than twice the amount of, stamps and meter register settings for which the payment is deferred. This bill provides that distributors would not have to make an additional security deposit if the distributor's average monthly purchase of stamps or meter register settings for the previous 12 months does not exceed 72,000 stamps or meter register settings and if the distributor meets specified conditions.

AB 1798 (Berg) – Chapter 896

Under the Natural Disaster Assistance Act, the state shares for eligible project costs is generally 75% of total eligible costs, and for specific incidents, the state share is set at 100% of total eligible state costs. This bill includes as eligible for allocations under those provisions the severe storms, flooding, debris flows, and mudslides that occurred from December 17, 2005, to January 3, 2006, in northern California.

Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessor, by a major misfortune or calamity, upon the application of the assessor or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances.

This bill provides for similar state allocations with respect to property tax revenue reductions, resulting from a reassessment ordinance, incurred by the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity, which were declared by the Governor to be in a state of emergency as a result of a series of severe rainstorms occurring in those counties from December 19, 2005, to January 3, 2006.

Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of $7,000 of the full value of a "dwelling". This bill provides that any dwelling that qualified for the exemption prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, in January 2006, and that has not changed ownership since December 19, 2005, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out and damaged roads.

The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency. This bill extends these provisions to losses sustained in the Counties of Del Norte, Humboldt, Lake, Mendocino, Napa, Sonoma, and Trinity as a result of the
severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005 or January 2006. This bill also authorizes a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

**AB 1809 (Budget Committee) – Chapter 49**

Existing law requires the Department of Finance to provide an annual report to the Legislature on tax expenditures, containing specified information. This bill, commencing January 1, 2007, requires the department to provide the report to the Legislature by no later than September 15 of each year and would specify the additional information that the report must contain, including, but not limited to, the statutory authority for each credit, deduction, exclusion, exemption, or any other tax benefit as provided for by state law and specific information on tax expenditures regarding sales and use tax, personal income tax, and corporation tax.

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances, until July 1, 2006. On and after July 1, 2006, the rebuttable presumption applies within 90 days from the date of the vehicle, vessel, or aircraft purchase, under specified circumstances. This bill continues, through June 30, 2007, the 12-month presumption and makes the 90-day presumption provisions operative on and after July 1, 2007.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit for taxable years beginning on or after January 1, 2006, to credentialed teachers in an amount equal to specified amounts, depending upon years of service as a teacher. This bill, instead, authorizes that credit for taxable years beginning on or after January 1, 2007.

**AB 1890 (Mountjoy) – Chapter 317**

Existing property tax law provides, pursuant to a requirement of the California Constitution, that the property tax base year value of real property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to a comparable property located within the same county that is acquired or newly constructed within 3 years after the disaster as a replacement property. This bill, for disasters occurring on or after July 1, 2003, expands this transfer authorization to allow a comparable replacement property to be acquired or newly constructed within 5 years, rather than 3 years, after a disaster.

**AB 2001 (Cogdill) – Chapter 70**

The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold.
Existing law requires all distributors of cigarette and tobacco products that are required to be licensed by the State Board of Equalization to furnish a $1,000 security deposit. Existing law, until January 1, 2007, requires a distributor, that defers payments for stamps or meter register settings and elects to make those payments on a twice-monthly basis, to furnish a security deposit of at least 50% of, but not more than twice the amount of, stamps and meter register settings, for which payment is deferred. For calendar years beginning on and after January 1, 2007, the amount of the security deposit is increased to 70% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred. Existing law allows a distributor, who defers payment, to post a security deposit in cash, or a cash equivalent, or surety bond.

Existing law, until January 1, 2007, requires distributors that defer payments for stamps and meter register settings to elect to remit those payments either on a monthly or on a twice-monthly basis. For calendar years beginning on and after January 1, 2007, the payments are required to be made on or before the 25th day of the month following the month in which the payments are deferred.

Existing law, until January 1, 2007, requires distributors of cigarettes and tobacco products that elect to defer payments on a twice-monthly basis to file the report on or before the 5th day of the month following the month during which the cigarettes or tobacco products were distributed. For calendar years beginning on and after January 1, 2007, those reports are required to be filed on or before the 25th day of the month following the month during which the cigarettes or tobacco products were distributed. This bill deletes the repeal dates specified in existing law, extending the operation of the deferred-payment option.

**AB 2239 (Emmerson) – Chapter 352**

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances, until June 30, 2007. On and after July 1, 2007, the rebuttable presumption applies within 90 days from the date of the vehicle, vessel, or aircraft purchase, under specified circumstances.

This bill would provide that the presumption may be controverted by documentary evidence, as specified, for a vehicle brought into this state for the exclusive purpose of warranty or repair service where the vehicle is in this state for that purpose for 30 days or less. This bill would require the owner of the vehicle to make statements specifying the date of travel to and from the warranty or repair facility.

**AB 2341 (Villines) – Chapter 773**

Existing law provides that every corporation incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state is subject to the minimum franchise tax. Liability for the minimum franchise tax begins on the earlier of the date of incorporation, qualification, or commencement of business within this state. The annual obligation to pay the franchise tax ends on the effective date of dissolution or withdrawal or, if later, the date the corporation ceases to do business within the state.
Existing law requires a dissolving or withdrawing corporation subject to tax in this state to pay a tax for the year it ceases to do business in California. The amount of tax owed is measured by the corporation's net income for its final taxable year, but cannot be less than the minimum franchise tax.

Existing law requires, prior to the dissolution of a corporation, that the corporation is required to obtain a Tax Clearance Certificate from the Franchise Tax Board certifying that its tax liabilities, if any, have been paid, assumed, or guaranteed by bond or otherwise.

Existing law also provides that every limited partnership, limited liability partnership, and limited liability company registered in this state, qualified to transact intrastate business in this state, or doing business in this state is subject to an annual tax equal to the minimum franchise tax. Liability for the annual tax begins on the date of registration with the Secretary of State, qualification, or commencing to do business within this state. The obligation to pay the annual tax ends on the effective date of cancellation of the entity or the date the entity ceases to do business in the state.

This bill eliminates the requirement that, prior to dissolution of a corporation, the corporation obtain a tax clearance certificate and instead provides that the Secretary of State notify the Franchise Tax Board of the dissolution.

This bill provides that the minimum franchise tax and the annual tax, as applicable, would not be assessed against these entities in the year that a final return is filed if the entity did not thereafter do business in California and dissolution, surrender, or cancellation of the entity is completed before the end of 12-month period following the date the final tax return was filed. In addition, this bill permits certain suspended corporations to seek dissolution without requiring payment of the accrued tax liability for years in which the corporation was inactive and not doing business.

**AB 2439 (Klehs) – Chapter 90**

The Personal Income Tax Law imposes taxes on taxable income and is administered by the Franchise Tax Board. Existing law authorizes the Franchise Tax Board to electronically deposit a taxpayer's refund into the taxpayer's checking or savings account. This bill authorizes the Franchise Tax Board to allow an individual taxpayer to request that his or her refund be electronically deposited into more than one checking or savings account.

**AB 2485 (Jones) – Chapter 296**

Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds. This bill allows taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Sea Otter Fund, which is created by this bill.

The bill requires the Franchise Tax Board, when another voluntary contribution designation is removed, to revise the form of tax returns to provide for the designation created by this bill, and would allow, upon appropriation by the Legislature, the Franchise Tax Board and the Controller to receive a portion of the funds designated to cover costs incurred in collecting and administering the funds.
AB 2533 (Leno) – Chapter 281

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Existing law provides various exemptions from that tax, including an exemption for original works of art purchased to become part of a permanent collection, as specified, items which have value as museum pieces, and certain purchases of public art by the state or any local government entity for display to the public in public place.

This bill expands the exemption for original works of art to include those leased from one nonprofit organization to another nonprofit organization for 35 years or more. This bill also expands the exemption to include public art that is leased by the state or any local government from another entity for display in public places. This bill expands the definition of work of art to include a costume, dress, clothing, or personal adornment. This bill also clarifies that a permanent collection, as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

AB 2670 (Aghazarian) – Chapter 791

The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of a regulated railway company. Existing property tax law provides for the allocation of the assessed value of the unitary property of a regulated railway company that is assessed by the State Board of Equalization among the several tax rate areas within a county where the property is located. Existing property tax law also provides for an annual adjustment of the allocation of this assessed value among tax rate areas for changes in track mileage, and defines track mileage as the number of miles of track, adjusted to reflect the relative importance of mainline, branch, and other track.

This bill, for the 2007-08 fiscal year and for each fiscal year thereafter, establishes a single countywide tax rate area within each county to which the assessed value of specified unitary property of a regulated railway company would be allocated. This bill requires that the revenues derived from the tax on this value be allocated among local entities in the county pursuant to a specified formula. This bill also requires, with respect to a qualified facility that 80% of the value of the facility and the revenues derived from taxing this value be allocated in the manner previously described, and requires that the remaining 20% of this value and resulting revenues be allocated exclusively to the local tax rate areas in the county in which the property is located.

This bill also changes the definition of track mileage for purposes of these provisions to instead mean the total miles of track in each county without regard to the relative importance of the track mileage.

AB 2715 (Runner) – Chapter 423

Existing law authorizes an agency that creates a state tax lien, as defined, with respect to real property to record notice of that lien with the county recorder. Existing law authorizes an agency creating a state tax lien with respect to personal property to file a notice of that lien with the Secretary of State. This bill authorizes the transmission, recording, and indexing of notices of these liens and related documents by electronic or magnetic means.

Existing law requires a county board of supervisors, upon request of the county assessor or sheriff, to contract with legal counsel to assist the assessor or sheriff with
duties for which the assessor or sheriff would have a conflict of interest. This bill applies this requirement to matters brought after an assessor or sheriff leaves office if certain conditions are met.

AB 2735 (Nava) – Chapter 897

Under the Natural Disaster Assistance Act, the state share for eligible project costs is generally 75% of total eligible costs, and for specific incidents, the state share is set at 100% of total eligible state costs. This bill includes as eligible for allocations under those provisions the severe storms, flooding, mudslides, and landslides that occurred in northern California during the period from December 17, 2005, to January 3, 2006, and March 29, 2006, to April 16, 2006.

Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances.

This bill provides for similar state allocations with respect to property tax revenue reductions, resulting from a reassessment ordinance, incurred by the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba, which were declared by the Governor to be in a state of emergency as a result of a series of severe rainstorms that occurred from December 19, 2005, to April 16, 2006.

Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of $7,000 of the full value of a "dwelling". This bill provides that any dwelling that qualified for the exemption prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, April 2006, May 2006, or June 2006, and that has not changed ownership since December 19, 2005, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out and damaged roads.

This bill also provides that any dwelling that qualified for the exemption prior to July 9, 2006, that was damaged or destroyed by the wildfires in the County of San Bernardino, as declared by the Governor in July 2006, and that has not changed ownership since July 9, 2006, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to property due to wildfires.
The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency. This bill extends these provisions to losses sustained in the Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Kings, Lake, Lassen, Madera, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Tuolumne, Yolo, and Yuba as a result of the severe rainstorms, related flooding and slides, and any other related casualties, that occurred in December 2005, January 2006, March 2006, or April 2006. This bill also authorizes a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

This bill also extends these provisions to losses sustained in the County of San Bernardino as a result of the wildfires that occurred in July 2006. This bill authorizes a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

**AB 2831 (Ridley-Thomas) – Chapter 580**

Existing insurance tax law, the Personal Income Tax Law, and the Corporation Tax Law, authorize, until January 1, 2007, a credit in an amount equal to 20% of a qualified investment, as defined, made into a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, $10,000,000 per year.

The bill extends the operation of the credits until January 1, 2012, makes changes relating to certification in connection with the credits, and makes legislative findings and declarations in connection thereto. This bill also requires the Legislative Analyst to prepare an analysis, on or before December 31, 2010, on the fiscal impact and various effects of the specified tax credits in California.

**AB 2962 (Benoit) – Chapter 428**

Existing law requires the transferee of a California real property interest, in specified circumstances, to withhold 31/3%, for income tax purposes, of the sales price of the property when the property is acquired from either an individual or a corporation, as specified. This bill, at the election of the transferor pursuant to a certification made under penalty of perjury, requires withholding of the amount certified by the transferor, but not less than the gain required to be recognized under the Corporation Tax Law or the Personal Income Tax Law.

**AB 3076 (Revenue & Taxation Committee) – Chapter 364**

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. For purposes of these provisions, existing law specifies that taxable real property has changed ownership
when that property is leased for 35 years or more, including renewal options. Existing law conclusively presumes that all homes that are eligible for the homeowners' exemption, other than specified manufactured homes, and that are on leased land are under a lease that have a renewal option of at least 35 years.

This bill excludes floating homes from the conclusive presumption that homes eligible for the homeowners' exemption that are on leased land are under a lease that has a renewal option of at least 35 years.

The California Constitution and existing property tax law authorize taxpayers that meet certain conditions to transfer the base year value, as defined, of property to replacement property. Existing law requires a taxpayer that seeks to transfer the base year value of property to replacement property to file a claim for this transfer within 3 years of purchasing or constructing the replacement property.

This bill requires the assessor to consider a base year value transfer application that is filed after that deadline and make conforming changes. This bill would also specify how the base year value of the replacement property described in the application would be determined.

Existing property tax law authorizes counties to adopt ordinances that allow assessees whose property was damaged or destroyed to apply for a reassessment of that property if certain conditions, including the filing of an application for reassessment, are met. Existing law requires the assessor of a county that has adopted such an ordinance to notify the last known owner of property that the assessor has determined has been damaged or destroyed, but for which an application for reassessment was not filed. Existing law requires an assessees that received this notice from the assessor and that seeks to have the property reassessed to file an application for reassessment within 60 days of receiving the notice, but prohibits the assessees from submitting this application more than 12 months after the damage occurred.

This bill eliminates this 60 day filing requirement to instead require that assessees file applications for base year value reductions within 12 months of the damage to the property.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for symbolic, impermanent lapel pins that memorialize United States military veterans killed in foreign wars. This bill corrects an obsolete cross-reference in this provision.

The Motor Vehicle Fuel Tax Law allows a supplier to claim a refund of the license tax paid for the motor vehicle fuel under specific circumstances, including, but not limited to, where the supplier buys and uses the fuel for purposes other than operating motor vehicles upon the public highways of the state, exports the fuel, sells the fuel to a consulate officer or employee, or delivers the tax-paid fuel to a terminal and removes the fuel from the terminal. Under this law, a supplier entitled to a refund may elect to take a credit in lieu of a refund where the fuel was purchased for use off highway, exported, sold to a consulate officer or employee, or delivered and removed from a terminal.

This bill consolidates the procedures for a supplier who chooses to claim a credit in lieu of a refund where the fuel was purchased for use off highway, exported, sold to a consulate officer or employee, or delivered and removed from a terminal.
The Use Fuel Tax Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Law, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law establish specified limitation periods for the approval by the State Board of Equalization for any refund for an overpayment.

This bill provides that, notwithstanding those provisions, a refund of an overpayment of any tax, penalty, or interest collected by the board by means of a levy or by other enforcement procedures, shall be approved if the claim is filed within 3 years of the date of the overpayment.

Existing law requires specified organizations that use, generate, store, or conduct activities in this state related to hazardous materials to pay a specified annual fee and file a return with the State Board of Equalization. This bill clarifies that every limited liability company, limited partnership, limited liability partnership, general partnership, and sole proprietorship is subject to those filing provisions.

The State Board of Equalization, as part of its administrative functions, is authorized to enter into settlement agreements for civil tax, or fee, or surcharge liability if it is determined that the settlement amount is consistent with a reasonable evaluation of the costs and risks associated with litigation, as provided. Existing law requires that whenever a reduction in tax, or fee, or surcharge in excess of $500 is approved by the State Board of Equalization and the Franchise Tax Board, a public record containing specified information with regard to the settlement shall be placed on file in the office of the executive officer.

This bill authorizes the executive director and the chief counsel of the board to approve jointly the settlement of any tax, or fee, or surcharge matter in dispute involving a reduction of tax, or fee, or surcharge or penalties in settlement of $5,000 or less. This bill requires that whenever a reduction of tax, or fee, or surcharge or penalties, or total tax, or fee, or surcharge and penalties in excess of $500 is approved, a public record be kept at the executive director's office, as provided. This bill also conforms and clarifies public record requirements.

Existing law requires the State Board of Equalization to administer the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Timber Yield Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Law, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law. Under these laws, when a liability is not paid when due, the board is authorized to use various procedures to collect the amounts due.

This bill authorizes the board to accept offers in compromise on a final tax, surcharge, or fee liability, as defined, under the various fee, surcharge, and tax programs, as provided. This bill would require a taxpayer, fee payer, or a surcharge payer, under specified circumstances, to file a statement under penalty of perjury and would additionally provide that the willful concealment or withholding of information in connection with an offer of compromise is a felony.
The Diesel Fuel Tax Law prohibits any person from operating or maintaining a motor vehicle on the public highway with dyed diesel fuel, except if dyed diesel fuel is used in a manner that is lawful under the Internal Revenue Code by a person who is registered in a specific capacity under the Diesel Fuel Tax Law, including an intercity bus operator. This bill removes that exception.

Under the existing Diesel Fuel Tax Law, a customer who has failed to pay for diesel fuel when the supplier of the diesel fuel has been allowed a credit on the fuel, as specified, is liable for the fuel tax as an unlicensed supplier, as provided. Existing law further provides that the tax, penalties, and interest owed by the unlicensed supplier become immediately due and payable. This bill requires the board to give the customer notice of the determination of tax liability within 3 years after the date the credit was taken or the date on which a refund was paid.

The Diesel Fuel Tax Law requires specified persons that are involved in the sale, removal, transportation, or storage of diesel fuel to keep and maintain specified records, including highway vehicle operator/refuelers. This bill changes this reference to highway vehicle operator/fuelers to conform with existing provisions.

**SENATE BILLS**

**SB 286 (Lowenthal) – Chapter 890**

The Personal Income Tax Law, in modified conformity to federal income tax laws, allows taxpayers a credit against the taxes imposed by that law for providing low-income housing, and requires the California Tax Credit Allocation Committee to allocate the credit in accordance with specified criteria. Property "at risk of conversion" is defined for these purposes as property that, among other things, is a multifamily rental housing development in which at least 50% of the units receive certain governmental assistance, including the low-income housing credit program set forth in a specified provision of the federal Internal Revenue Code, provided the property is ineligible to receive an allocation of tax-exempt private activity mortgage revenue bonds from the California Debt Limit Allocation Committee. Pursuant to this definition of property "at risk of conversion," the restrictions on rent and income levels must terminate, or the federal insured mortgage on the property must be eligible for prepayment, anytime within 5 calendar years after the year of application to the California Tax Credit Allocation Committee.

This bill deletes the requirement that the property be ineligible for an allocation of tax-exempt private activity mortgage revenue bonds from the California Debt Limit Allocation Committee in order for the multifamily rental housing development to qualify as receiving governmental assistance through the low-income housing credit program and provides that the termination of restrictions on rent and income levels and the eligibility on prepayment occur within 5 years before or after the date of application to the California Tax Credit Allocation Committee.

**SB 503 (Figueroa) – Chapter 447**

Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy, within the Department of Consumer Affairs. Existing law requires a firm that provides attest services, as defined, other than a sole proprietor or
a small firm, to meet specified peer review requirements prior to the first registration expiration date after July 1, 2008. Existing law requires the board to review whether to implement the peer review program in light of changes in federal and state law or regulations or professional standards, and to report its findings to the Legislature by September 1, 2005. Existing law sets specified fees to be charged by the board.

This bill requires those firms to meet the peer review requirements within 3 years of the commencement of the peer review program, rather than prior to the first registration expiration date after July 1, 2008. The bill revises the board's review and reporting requirement to instead require the board to review and evaluate whether to implement the program and to report its findings and recommendations to the Legislature and the department no later than September 1, 2011. The bill requires the board, if it determines that the peer review program should be implemented, to identify the resources necessary for implementation and to recommend a date for commencement of the program. The bill revises the fees to be charged by the board.

SB 663 (Migden) – Chapter 22

Existing law provides that, in the case of a business with income derived from or attributable to sources both within and without this state, the income is apportioned between this state and the other states and foreign countries for tax purposes in accordance with a specified formula based on the property, payroll, and sales within and without this state. Existing law permits a qualified taxpayer, as defined, to elect to determine its income under a water's-edge election. A water's-edge election provides that only the income and apportionment factors of certain described affiliated corporations may be included for purposes of determining the taxpayer's income apportioned to this state.

Existing law requires that income and apportionment factors of a foreign corporation be included in the combined report of a taxpayer making a water's-edge election, but only to the extent of the foreign corporation's United States-source income and apportionment factors. The income and apportionment factors of a controlled foreign corporation, as defined in the Internal Revenue Code, that is an affiliated corporation of a taxpayer are included in the combined report of the taxpayer making a water's-edge election to the extent of the "Subpart F" income ratio, as determined under existing law. Existing law, however, does not specify whether the United States-source income rules or the rules regarding "Subpart F" income, as defined in the Internal Revenue Code, apply to income of a controlled foreign corporation that has both United States-source income and "Subpart F" income.

This bill clarifies that existing law prohibits a controlled foreign corporation from excluding its "Subpart F" income from a water's-edge combined report, even if it is a California taxpayer or has income from a United States source. This bill also clarifies that existing law requires inclusion in a water's-edge combined report of both United States-source income and "Subpart F" income of a controlled foreign corporation, regardless of whether the corporation is a California taxpayer. This bill declares the intent of the Legislature that this clarification be operative for taxable years beginning on or after January 1, 2006.

This bill also declares the intent of the Legislature that the manner in which a taxpayer reported specified income, as provided, on or before January 1, 2006, shall be
deemed to be in compliance with existing law, as it read prior to the enactment of this act, and that no inference shall be drawn from this act as to the manner in which a taxpayer reported specified income after January 1, 2006. This bill requires the Franchise Tax Board to promulgate regulations to prevent the potential double taxation of income when a controlled foreign corporation has both United States-source income and "Subpart F income."

**SB 763 (Lowenthal) – Chapter 634**

The Enterprise Zone Act prescribes the duties and responsibilities of the Department of Housing and Community Development in connection with the establishment of enterprise zones and manufacturing enhancement areas. The act authorizes the department and local governments to charge and collect fees in connection with its provisions, and to assess each enterprise zone a fee of not more than $10 for each application it accepts for the issuance of a specified tax certificate issued by a local government.

This bill authorizes the department to charge a fee in connection with the costs of administering provisions relating to the targeted tax area program and the Local Agency Military Base Recovery Area Act and requires the department to also assess an enterprise zone, a manufacturing enhancement area, and a local agency military base recovery area (LAMBRA) the same fee of not more than $10.

**SB 1317 (Torlakson) – Chapter 872**

The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of companies transmitting or selling gas or electricity. Existing property tax law provides for the valuation, as a unit, of properties of a state assessee that are operated as a unit as a primary function of that assessee, and for the allocation of the assessed value of the unit among various counties in which the state-assessee's unitary property is located. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to unitary assessed value, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill, for the 2007-08 fiscal year and for each fiscal year thereafter, requires that the assessed value of qualified property, as defined, placed in service by a public utility on or after January 1, 2007, be allocated entirely to the county in which the property is located. This bill also requires that the property tax revenues derived from qualified property be allocated among the county, certain special districts, and school entities in the same percentage shares as revenues derived from the utility in the prior fiscal year. This bill also requires that the balance of these revenues remaining after these allocations have been made be allocated to water districts, cities, or the county. This bill makes findings and declarations that the bill not be construed to require the State Board of Equalization to modify its computerized roll system.

**SB 1341 (Cedillo) – Chapter 373**

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. The law provides various exemptions from this tax, including an exemption for retail items sold by thrift stores operated by nonprofit organizations, if the purpose of that
thrift store is to obtain funding for medical, hospice, or social services provided to individuals with HIV disease or AIDS by the nonprofit organization. This exemption will be repealed January 1, 2007. This bill changes the repeal date of the exemption to January 1, 2012, and would require a thrift store claiming the tax exemption for retail items to have at least 75% of its net income derived from operations of the thrift store.

**SB 1400 (Kehoe) – Chapter 251**

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. Among this criterion is a requirement that the military family housing constructed by the private contractor is situated on a military facility under military control. This bill defines military facility under military control as a military base that restricts public access to the military base.

**SB 1449 (Migden) – Chapter 252**

The Sales and Use Tax Law imposes penalties for failure to file returns and for failure to remit the total taxes owed. This bill provides that any person who knowingly collected sales tax reimbursement or use tax, and who fails to timely remit that sales tax reimbursement or use tax to the State Board of Equalization, is liable for a penalty of 40% of the amount not timely remitted, except under certain circumstances.

**SB 1607 (Machado) – Chapter 224**

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law exclude from a "change in ownership" specified property transfers between parents and their children and grandparents and their grandchildren. Existing law states the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between parents and their children be liberally construed. This bill states the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between grandparents and their grandchildren also be liberally construed.

Existing property tax law, in accordance with the California Constitution, provides for a "welfare exemption" for property that is used exclusively for religious, hospital, or charitable purposes if certain conditions are met. Existing law specifies that exempt property does not lose that status under the welfare exemption because another organization also uses the property, if the other organization meets certain conditions,
including a condition that the other organization's owner submits an organizational clearance certificate with the county assessor. This bill instead requires either the owner of the exempt property or the other organization that uses the exempt property to submit to the assessor a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the organization under state or federal income tax laws.

Existing law specifies that the property of a limited liability company may qualify for the welfare exemption if that company and its property meet all of the requirements set forth for that exemption. This bill clarifies that a limited liability company that has a governmental entity or a nonprofit organization as a member may qualify as an exempt entity. This bill also specifies that each nonprofit tax-exempt member of a limited liability company is to submit to the State Board of Equalization a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the member under state or federal income tax laws, as provided. This bill also makes technical changes regarding limited liability companies and the welfare exemption.

Existing law establishes a veterans' organization property tax exemption. Existing law prohibits the county assessor from approving a claim for the veterans' organization exemption or welfare exemption until the claimant has received an organizational clearance certificate, as specified, from the State Board of Equalization. Existing law requires board staff to issue an organizational clearance certificate to an entity that qualifies for the property tax welfare exemption, but does not expressly require the board staff to issue an organizational clearance certificate to an organization that seeks the veterans' organization exemption. This bill requires board staff to issue an organizational clearance certificate to an entity that qualifies for the veterans' organization exemption.

The California Constitution generally exempts property that is owned by a local government from property taxation, except in certain instances. Existing law authorizes a county, city and county, or municipal corporation that owns taxable property to apply to the State Board of Equalization for a review, equalization, or adjustment of a property tax assessment relating to this property. Existing law requires that this application be submitted to the board on or before the later of either the 3rd Monday in July or within 2 weeks of the date upon which a county assessor delivers that assessment to the county auditor. This bill instead requires that this application be submitted to the board on or before the later of either July 20 or within 2 weeks of the date upon which a county assessor delivers the assessment to the county auditor.

**SB 1827 (Migden) – Chapter 802**

The Personal Income Tax Law imposes tax on taxable income and provides, among other things, that specified definitions govern the construction of that law. Existing law allows married couples to file joint or separate state tax returns. This bill allows registered domestic partners to file joint or separate state tax returns, as specified.
**AB 675 (Klehs) – Vetoed**

The Corporation Tax Law imposes taxes according to, or measured by, net income. This bill would have made legislative findings and declarations regarding the manipulation of accounting rules and principles by certain corporations. This bill would have required any corporation, including "S" corporations, subject to state income tax or any corporation included in a combined report to file, with its tax return, an information return, as specified, if the total assets of the corporation or the combined group equal or exceed $10 million, and would impose specified penalties for failure to furnish the return, or filing a false or incomplete return. This bill would have required the Franchise Tax Board to report to the Legislature regarding book income and tax shelter activities, as specified.

**Governor’s Veto Message:**

To the Members of the California State Assembly:

I am returning AB 675 without my signature.

This bill requires businesses with assets over $10 million to file an information return in addition to their tax return with the Franchise Tax Board, to explain the difference between their book income and their taxable income.

The bill imposes significant penalties for any information return that is incomplete.

While this bill purports to offer shareholders protection against corporations engaging in tax shelter schemes, it only creates a level of additional bureaucracy and unnecessary costs on top of many significant legal and oversight protections put in place after the Enron scandal.

In response to the public’s outrage over the Enron scandal, significant new laws and regulations were enacted by Congress and the Securities and Exchange Commission (SEC) to protect shareholders and ensure accurate disclosure of earnings on financial statements.

The Sarbanes-Oxley Act of 2002 contains eleven titles and sections governing auditor independence, corporate governance and enhanced financial disclosure. It also requires the certification of financial reports by chief executives and financial officers with enhanced civil and criminal penalties for violations, including significantly longer jail sentences and fines for corporate executives who misstate financial statements.

In 2003, the SEC approved additional reforms for accountability, integrity and transparency for all publicly traded companies, including the use of any non-accepted accounting tricks to overstate the company’s financial health.

California passed laws further enhancing this protection and required corporations report to the State Board of Accountancy whenever it restates its earnings.

Requiring yet and additional information return be filed with the state is unnecessary and will add costs and burdens to doing business in California without offering protection to shareholders they don’t already have.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

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**AB 799 (Leno) – Vetoed**

Existing law authorizes certain counties to impose a local vehicle license fee of $10 per year, as provided, for the privilege of operating specified vehicles on public roads in the county. Existing law requires a county imposing this fee to contract with the Department of Motor Vehicles to collect and administer the fee, as specified. This bill would have authorized the City and County of San Francisco to impose a local vehicle license fee for specified vehicles if certain conditions, including approval by local voters, are met. This bill also would have required the city and county to contract with the department to collect and administer the fee.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions against the income that is otherwise subject to tax under those laws, including
a deduction for local taxes that were paid or incurred by a taxpayer. This bill would have required the Franchise Tax Board to notify the department of estimated revenue losses to the state resulting from taxpayers deducting, for purposes of the Personal Income Tax Law and the Corporation Tax Law, the local vehicle license fees authorized by this bill. This bill also would have required the department to transmit from the fees collected an amount equal to these reported losses for deposit in the General Fund, as specified, and to transmit to the board an amount equal to the board's administrative costs in making this report.

Governor’s Veto Message:
To the Members of the California State Assembly:
I am returning AB 799 without my signature.
Within hours of taking office in 2003, I signed an Executive Order to reverse the car tax increase. That action returned $4 billion to the people of California. Putting that money back into the hands of hard working Californians is one of the ways we have helped our economy grow over the last three years. This measure would, in effect, reinstate the car tax for the people of San Francisco. In fact, if the vehicle license fee increase proposed by this bill were enacted, the people of San Francisco could pay more than twice the amount to register their vehicles than anyone else in the state.
As noted in my veto messages of prior years, I am not opposed to modest increases in fees if such increases are approved by the impacted voters and not addressed in a piecemeal fashion. Although this bill requires voter approval, it impacts only one county. In addition, the revenues generated by this bill would not be directed to projects related to vehicles but used to bolster the city’s general fund. This is an unfair burden to place solely on the shoulders of motorists.
Throughout the year, my administration worked with members of the legislature on a proposal that would have given all counties the authority to adopt, with voter approval, modest license fee add-ons to fund environmental and traffic mitigation programs. Unfortunately, those efforts were ultimately rejected. I encourage the Legislature to reconsider this decision when they return next year.
Sincerely,
Arnold Schwarzenegger

AB 926 (Chu) – Vetoed
Existing property tax law requires a transferee of real property or a manufactured home that is locally assessed to file a change in ownership statement with the county in which the property or manufactured home is located. Existing law requires this statement to be filed within specified time periods or within 45 days of a written request therefore from the county assessor. If a county assessor makes a written request to a transferee to file a change in ownership statement and the transferee fails to do so within 45 days of that request, existing law imposes a penalty on the transferee equal to the greater of either $100 or 10% of the property taxes due on the property, but not to exceed $2,500 if the failure was not willful.
This bill would have removed the $2,500 cap on the penalty for nonwillful failures to file a change in ownership statement and would instead have provided a $2,500 cap on the penalty for failure to file a change in ownership statement on property that is eligible for the homeowners' property tax exemption or $10,000 if the property is not eligible for the homeowners' exemption. This bill would also have made conforming changes to a related provision.
Existing property tax law requires each county assessor and county recorder to make available a form known as a preliminary change in ownership report. Existing law specifies the contents of this form, but authorizes the State Board of Equalization to revise the form.
This bill would have deleted the specified contents of this form and would instead require the State Board of Equalization, after consultation with the California Assessors' Association, to prescribe the contents of the form. This bill would have required that this form contain information that includes, but is not limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. This bill would have also required that this form be declared true under penalty of perjury.

AB 1029 (Horton) – Vetoed

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and requires a person or entity that obtains a controlling or majority ownership interest in a legal entity, or an entity that makes specified transfers of ownership interests in the legal entity, to file a change in ownership statement, as specified, with the State Board of Equalization within 45 days of specified transactions, or whenever requested by the board. Existing law imposes a penalty of 10% of the taxes owed to the county on a parcel of real property if an assessee fails to file a change in ownership statement with the board within 45 days of a board request.

This bill would have modified the provisions of that statement to specify that the county assessor shall estimate the value of, and reassess, the real property owned by an entity in its jurisdiction if the entity fails to respond to a county assessor's request for information and the assessor has information that a change in ownership has occurred. This bill would have also authorized a county board of supervisors to abate, and to authorize the county assessor to abate, the 10% penalty if the failure to file the change in ownership statement within the prescribed time period was due to reasonable cause, the person or legal entity has subsequently filed a change of ownership statement with the State Board of Equalization, and the person or legal entity has filed with the county board of supervisors a written application for abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty. This bill would also have defined "reasonable cause" for purposes of these provisions.

Existing law requires the Franchise Tax Board to include specified questions on the income tax returns of specified entities regarding changes in ownership of the real property owned by the entity and requires the Franchise Tax Board to notify the State Board of Equalization if an entity answers "yes" to these questions. This bill would have deleted the specified questions and would instead require the Franchise Tax Board to include general questions on these income tax returns asking whether a change in control or change in ownership has occurred and whether the entity owns real property in the state.
Existing property tax law provides for escape assessments to be made on property outside the regular assessment period and requires that certain notices, in a form prescribed by the State Board of Equalization, of those assessments be given to assessees. This bill would have clarified that, in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control, an escape assessment may be made for each year in which the property escaped taxation or was underassessed, if a change in ownership statement, was not filed within 45 days of a written request by the State Board of Equalization.

Governor’s Veto Message:
To the Members of the California State Assembly:
I am returning Assembly Bill 926 without my signature.
The proponents of this bill make a reasonable argument that an increase is needed to the penalty imposed on property owners that fail to respond to a request from the county assessor regarding a property transfer. This penalty has not changed in 25 years, despite tremendous increases in property values. However, I am concerned that current procedures do not adequately ensure property owners actually receive requests from county assessors in a timely manner. It is inappropriate to raise penalties against property owners for not responding within a proscribed timeframe unless there is a reasonable assurance that the owners received the request in the first place. I encourage the proponents of this bill and property owners to develop procedures to ensure requests are appropriately delivered and received before penalties for failure to respond are levied.
Sincerely,
Arnold Schwarzenegger

AB 1614 (Ruskin) – Vetoed

The Personal Income Tax Law requires every limited liability company subject to a specified tax to pay annually to this state a fee equal to specified amounts based upon total income from all sources reportable to this state. That law defines total income as gross income, as defined, plus the cost of goods sold. This bill would have, for taxable years beginning on or after January 1, 2001, provided that total income from all sources reportable to this state means gross income, as defined, plus the cost of goods sold, derived from or attributable to this state within the meaning of specified provisions of the Corporation Tax Law relating to apportionment and allocation. This bill would have made legislative findings and declarations regarding the necessity for the equitable treatment of limited liability companies.

Governor’s Veto Message:
To the Members of the California State Assembly:
I am returning Assembly Bill 1614 without my signature. This bill would impact how fees are collected from businesses choosing to operate as limited liability companies. As litigation is currently pending regarding this matter, it is premature to take legislative action at this time. For this reason, I am returning the bill without my signature.
Sincerely,
Arnold Schwarzenegger

SB 1208 (Ortiz) – Vetoed

Existing law, the Cigarette and Tobacco Products Tax Law, requires every distributor of cigarettes to pay taxes, as prescribed, on the distribution of cigarettes. In addition to the requirement to pay taxes on the distribution of cigarettes, existing law also requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. Existing federal law, known as the Jenkins Act, requires any person that sells or transfers, in interstate commerce, cigarettes into a state that taxes
the sale or use of cigarettes to file and report specified information with the tobacco tax administrator of that state.

Existing law prohibits, except under specified circumstances, a retail sale of cigarettes that is not a face-to-face sale, as defined, and prohibits distribution of tobacco products through the mail. Existing law exempts a person from the face-to-face sale restriction, if that person has paid all applicable state taxes and is in compliance with the federal Jenkins Act.

This bill would have enacted substantially similar provisions relating to tobacco products, including, but not limited to, cigars and pipe tobacco. The bill would have, for cigarettes, as defined, repealed the face-to-face sale requirement, and the related tax reporting provisions, would have repealed the prohibitions against distribution through the mail, and would, instead, with certain exceptions, prohibited shipping or transporting of cigarettes to persons in California, and would have established criminal and civil penalties for violation of this prohibition.

Existing law prohibits the offer, sale, distribution, or importation of a tobacco product known as "bidis" or "beedies," as defined, unless it is sold or intended for sale in business establishments that exclude minors. This bill would have amended the definition of “bidis” or “beedies” to include any product that is marketed and sold as "bidis" or "beedies" and would clarify those persons who violate this prohibition are subject to both criminal and civil liability.

Governor’s Veto Message:
To the Members of the California State Senate:
I am returning Senate Bill 1208 without my signature. This bill would prohibit cigarette sales via the Internet to individual California consumers and only permit shipping of cigarettes via the Internet to state of California tobacco licensed businesses. Existing law reduces youth access to cigarettes over the Internet by requiring Internet sellers and shippers to verify the age of the purchaser, similar rules that apply to alcohol sales and shipments. In addition, the Board of Equalization is currently uses the federal Jenkins Act to recover excise taxes from Californians that have purchased cigarettes via out-of-state Internet websites.
Sincerely,
Arnold Schwarzenegger

Chris Micheli is an attorney and a registered lobbyist with the Sacramento governmental relations and advocacy firm of California Strategies & Advocacy, LLC, where he specializes in tax legislative and administrative matters. He can be reached at (916) 266-4575.