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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

July 27, 2009

Office of the Attorney General
Ms. Krystal Paris, Initiative Coordinator
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

Dear Krystal:

I am submitting an amended version of the *The McCauley-Rosen Wealth Tax and Oceans Preservation Act* (09-023).

The Legislative Analyst identified a problem area and so the amendment.

I have enclosed a mark up version which identifies the new language added to the original measure.

Very truly yours,

Paul McCauley

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. This measure shall be known and may be cited as "*The McCauley-Rosen Wealth Tax and Oceans Preservation Act*".

SECTION 2. The people of the State of California find and declare all of the following:

- (a) The concentration of private wealth in the hands of the few is inconsistent with the tenets of a democratic society.
- (b) Staggering sums of wealth have come to be concentrated in the hands of a tiny percentage of the population coinciding with growing poverty for tens of millions of persons, declining living standards and worsening economic security for tens of millions more.
- (c) There has been, in recent decades, a massive shift in wealth and income from the poor and working class to the rich and wealthy. The process by which the targets of this initiative acquired their wealth in the first instance was the most radical transfer of wealth in American history, and this measure is a modest attempt to redress the increasingly dangerous imbalances that this concentration of money power has created.
- (d) Coincident with massive wealth transfers has been the ongoing destruction of the global environment, including the destruction of fisheries, oceans, glaciers, sea life, forests and the global ecosystem.
- (e) Massive concentrations of money power have fueled the globalization of the American economy, undermined America's traditional manufacturing, industrial and agricultural strength and substituted a class of money changers and speculators for working men and women. The concentrated money power has wholly undermined free democratic institutions, created a new breed of public office holder wholly beholden to its power and reduced America to a debtor nation and a nation of debtors.
- (f) That the colossus commonly called the military-industrial-congressional complex is bankrupting this nation, encroaching on other nations' sovereignty and self-determination, putting the community of nations at risk of an outbreak of civil strife and war, especially the risk of nuclear war among the nations; that it is corrupting spiritually, morally and physically this nation's youth and crowding out provision for this nation's health, welfare, education and other necessary public and social services.
- (g) This act proposes to restore a measure of balance in wealth between persons living in California, to salvage the global ecosystem from ongoing destruction, to restore public supervision and influence over the nation's largest financial institutions and over its military-industrial-congressional complex.

SECTION 3. Section 8 is added to Article XIII A of the California Constitution, to read:

SEC. 8 (a) The tax imposed under Sections 13302 and 17065.9 of the Revenue and Taxation Code are not ad valorem property taxes for purposes of subdivision (a) of Section 1 and Section 3.

(b) Revenues derived from the taxes imposed under Sections 13302, 17041(j) and 17065.9 of the Revenue and Taxation Code are not "proceeds of taxes" or "General Fund revenues" subject to Sections 8 and 8.5 of Article XVI. Tax credits and appropriations pursuant to the provisions of Revenue and Taxations Code Sections 17065.3, 17065.4, 17065.5, 17065.6, 17065.7, 17065.8 and 23780 shall be applied against revenues pursuant to Revenue and Taxation Code Section 17041(j) for purposes of calculating the minimum funding requirements of Sections 8 and 8.5 of Article XVI.

(c) Revenues derived from the taxes imposed under Sections 13302, 17041(j) and 17065.9 of the Revenue and Taxation Code are not "proceeds of taxes" subject to Article XIII B.

SECTION 4. Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code is repealed.

SECTION 5. Part 8 (commencing with Section 13301) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 8. WEALTH TAX

13301. For purposes of this part, the following terms have the following meanings:

- (a) "Board" means the Franchise Tax Board, except where otherwise indicated.
- (b) "Fund" means the Environmental Superfund established by Section 13304.

13302. (a) Chapter 11 and Chapter 14 of Subtitle B of the Internal Revenue Code, relating to the estate tax, as amended on December 1, 2004, shall apply, except as otherwise provided in this part.

(b) Chapter 11 and Chapter 14 of Subtitle B of the Internal Revenue Code are modified as follows:

- (1) The term "taxpayer" shall be substituted for the terms "executor," "decedent," or any combination of those terms in each place they appear.
- (2) The term "January 1, 2010" shall be substituted for the terms "time of death," "date of death," or any similar terms in each place they appear. If a court of competent jurisdiction finds that the date January 1, 2010 may not be constitutionally applied, then the date January 1, 2011 shall be substituted therefor.
- (3) Subdivision (a) of Section 2001 is modified by substituting the phrase "the taxable estate of each individual" for the phrase "transfer of the taxable estate of every

decedent who is a citizen or resident of the United States.” For purposes of this paragraph, both of the following apply:

(A) For an individual who is a resident of the state on the operative date of this section, “taxable estate” means the individual’s taxable estate on January 1, 2010, as determined under the Internal Revenue Code and as modified by this part, as if that individual were a decedent on January 1, 2010.

(B) Under no circumstances shall the rate of tax applied to the taxable estate be less than 55%.

- (4) Subdivision (c) of Section 2010 does not apply and the applicable credit amount against the tax imposed under this part is six million six hundred fifty thousand eight hundred dollars (\$6,650,800) for an individual. For married persons, the applicable credit amount against the tax imposed under this part is eight million nine hundred thousand eight hundred dollars (\$8,900,800) apportioned among the spouses in any manner the spouses elect. If the spouses fail to agree on an apportionment of the credit, each spouse shall be entitled to half of the total credit allowed.
- (5) Section 2033 is modified by adding the following sentence thereto: “Neither minority interest discounts, nor lack-of-control discounts nor lack of marketability discounts shall reduce the value of any property interest included in the gross estate.”
- (6) Sections 2055, 2056, 2057, and 2058 do not apply.
- (7) Sections 2201 to 2210, inclusive, do not apply.
- (8) The tax determined pursuant to this part shall not be considered to be a liability of the estate of the taxpayer and so shall not reduce the taxable estate. Further, income taxes resulting from the sale of any property interest to pay the tax imposed pursuant to this part shall not be considered a liability of the estate of the taxpayer and so shall not reduce the taxable estate.
- (9) Internal Revenue Code Section 1014 shall not apply in determining the adjusted basis of any property as a result of the imposition of the tax provided by this part.
- (10) Section 2032 shall apply except that the term “12 months” shall be substituted for the term “6 months” wherever the term “6 months” appears therein.

13303. (a) On or before January 1, 2011 the Board shall develop a return form for the payment of the tax imposed under this part.

(b) A taxpayer shall file a return for the tax imposed under this part on or before September 30, 2011, and the tax shall be paid according to the following schedule:

(1) A taxpayer shall pay one-half of the amount due on or before September 30, 2011.

(2) A taxpayer shall pay the balance due on or before September 30, 2012.

(c) A taxpayer may, on or before September 30, 2011, apply to the Board to request an extension of time of not more than six months to file the return required by subdivision (a) if the taxpayer remits, at the time of applying for the extension, an amount equal to one-half the estimated tax that will be due from that taxpayer under Section 13302. The Board shall grant the extension if the taxpayer demonstrates reasonable cause for the extension. The Board shall deny the extension if it believes the collection of the tax due is in jeopardy. In the circumstance that the Board finds that the collection of the tax is in jeopardy, the Board may immediately assess the taxes it estimates are due. The Board's imposition of a jeopardy assessment is subject to judicial review.

13304. (a) The Environmental Superfund is hereby created in the State Treasury to receive all revenues, net of refunds, derived from the tax imposed under this part, surplus revenues pursuant to Section 15 and all revenues, net of refunds, pursuant to Section 17.

(b) Moneys in the fund shall be used only for the following purposes, in the manner provided by law (the purchase of the common stock of the arms and weapons entities shall proceed as a first order, followed by the remaining entities in no specific order. The draining and restoration of the Hetch Hetchy Valley shall proceed on an "as able" basis. Stock purchases shall be made over a period of years on terms as favorable as possible to the Fund):

(1) To purchase at least 50% of the outstanding voting common stock of Exxon Mobil Corporation. (Energy)

(2) To purchase at least 50% of the outstanding voting common stock of Chevron Corporation. (Energy)

(3) To purchase at least 50% of the outstanding voting common stock of Conoco Phillips Corporation. (Energy)

(4) To purchase up to 80% of the outstanding voting common stock of Lockheed Martin Corporation. (Arms & Weapons)

(5) To purchase up to 80% of the outstanding voting common stock of Boeing Company. (Arms & Weapons)

(6) To purchase up to 80% of the outstanding voting common stock of Northrop Grumman Holding Company. (Arms & Weapons)

(7) To purchase up to 80% of the outstanding voting common stock of Raytheon Company. (Arms & Weapons)

(8) To purchase up to 80% of the outstanding voting common stock of General Dynamics Corporation. (Arms & Weapons)

- (9) To purchase up to 80% of the outstanding voting common stock of United Technologies Corporation. (Arms & Weapons)
- (10) To purchase up to 80% of the outstanding voting common stock of L-3 Common Holdings, Inc. (Arms & Weapons)
- (11) To purchase up to 80% of the outstanding voting common stock of Honeywell International, Inc. (Arms & Weapons)
- (12) To purchase at least 50% of the outstanding voting common stock of JP Morgan Chase Corporation. (Financial)
- (13) To purchase at least 50% of the outstanding voting common stock of Bank of America Corporation. (Financial)
- (14) To purchase at least 50% of the outstanding voting common stock of Citigroup, Inc. (Financial)
- (15) To purchase up to 80% of the outstanding voting common stock of Halliburton Company. (Arms & Weapons)
- (16) To purchase up to 80% of the outstanding voting common stock of General Motors Corporation. (Automobile)
- (17) To purchase up to 80% of the outstanding voting common stock of the Ford Motor Company. (Automobile)
- (18) To purchase up to 80% of the outstanding common stock of Chrysler Corporation. (Automobile)
- (19) To purchase the Los Angeles Times.
- (20) To drain and restore the Hetch Hetchy Valley to its natural condition circa the beginning of the 20th century.

(c) Surplus funds, and all other funds accruing to the benefit of the Fund, may be applied to purchase outstanding voting common stock of further arms and weapons entities at the administrators' discretion. The administrators' decision to purchase stock in further arms and weapons entities shall be guided by the purposes and objectives set forth in subdivision 13304 (f) below. Surplus funds, and all other funds accruing to the benefit of the Fund, shall be used to repair and to prevent environmental damage due to the global warming phenomenon or due to any other cause, at the Administrators' discretion. Surplus funds, and all other funds accruing to the benefit of the Fund, may also be used for infrastructure repairs and improvements when such repairs and improvements are undertaken for purposes consistent with the purposes of the Fund. Surplus funds, and all other funds accruing to the benefit of the Fund, shall also be used for the development of alternative fuels – alternatives to fossil fuels - and the development, modification or replacement of the energy grid.

(d) Consistent with the purposes of the Fund, the administrators of the Fund are authorized to divest any of the corporate entities of subsidiaries, divisions and/or assets by selling the subsidiaries, divisions and/or assets on terms acceptable to the administrators, as provided by law. Beginning fifteen years after the date of acquisition of stock in the corporate entities, the administrators may sell the stock of any or all of the corporate entities to raise funds to carry out the purposes of the Fund. With specific reference to the entities which are arms and weapons manufacturers, such entities may be

sold at any time after liquidation of the divisions and/or subsidiaries which manufacture, procure, develop, design or sell arms and weapons.

(e) Income of the fund shall be used first to meet expenses of the fund and then for the purposes set forth under subsection (b) above.

(f) The California Coastal Conservancy shall administer the Environmental Superfund. The Coastal Conservancy shall be guided by the following general and specific principles and purposes:

(1) The purposes of acquiring a controlling interest in the outstanding voting common stock of the energy, automobile and financial entities are to accomplish the following public purposes:

- (a) To assure California residents and businesses with supplies of energy to meet their several needs.
- (b) To stabilize prices at which California residents and businesses purchase energy.
- (c) To assure the devotion of sufficient resources of the acquired entities to the research for and development of alternative fuels to replace fossil fuels and fuels that otherwise contribute to the phenomenon of global warming.
- (d) To assure that the acquired entities have no part in offshore oil drilling off the western coast of the United States, Mexico, Central and Latin America, the coasts of Canada, Alaska and in the Arctic National Wildlife Refuge.
- (e) To preserve and to rehabilitate the global climate, the global ecosystem, the oceans and the sea life within the oceans, the rain forests and plant and animal life of all kinds wherever situated.
- (f) To disfavor international investments and loans and other financial manipulations in favor of loans to and investments in American domestic manufacturing, industrial and agricultural enterprises; especially directed toward rebuilding America's manufacturing, industrial and agricultural bases. To that end, the acquired lending institutions shall favor the repatriation of manufacturing and industrial operations to the continental United States, Hawaii and Alaska and shall favor loans to and investments in enterprises that maintain, or undertake to repatriate, their operations in the continental United States, Hawaii and Alaska.
- (g) To materially reduce the size of the military-industrial-congressional complex to a level consistent with an affordable national defense capability and the preservation of the global ecosystem.

(2) The purpose of acquiring a controlling interest in the outstanding voting

common stock of the weapons and arms manufacturers is to accomplish the following public purpose:

(a) To liquidate – not sell – those divisions and subsidiaries of the entities which are engaged in the manufacture, procurement, sale, development and design of arms and weapons of any kind. Any ambiguity in the activities of any division or subsidiary is to be resolved in favor of liquidation.

(1) Employees discharged as a result of the liquidation of any division or subsidiary shall be offered employment in other divisions or subsidiaries of the entities and, if no employment is available, shall be paid severance pay at a rate equal to their most recent compensation rate – except that no person shall receive greater than \$75,000 per year compensation - and the severance pay shall continue for no longer a period of time than the employee's term of employment with the entity before its purchase by the Environmental Superfund; except that in no instance shall any person draw severance pay for a period in excess of five years. The severance pay shall be paid in the same manner as if the severed employee were still employed by the company and the employee shall continue to participate in all benefit plans as if he or she were still employed on a full-time basis.

13305. Notwithstanding any other provision of law, the penalties set forth in Part 10 (commencing with Section 17001), including any amendments thereto, apply to this part, as follows:

- (a) Penalties for failing to file a timely return also apply for failing to file a timely return as required by Section 13303.
- (b) Penalties for failing to timely pay the tax also apply for failing to timely pay the tax imposed under Section 13302.
- (c) Penalties for filing a false or misleading return apply for filing a false or misleading return under Section 13303.

13306. The board shall promulgate regulations to implement this part.

SECTION 6. Section 17041 of the Revenue and Taxation Code is amended to read:

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

If the taxable income is:	The tax is:
Not over \$3,650.....	1% of the taxable income
Over \$3,650 but not over \$8,650.....	\$36.50 plus 2% of the excess

over \$3,650

Over \$8,650 but not
over \$13,650.....\$136.50 plus 4% of the excess
over \$8,650

Over \$13,650 but not
over \$18,950..... \$336.50 plus 6% of the excess
over \$13,650

Over \$18,950 but not
over \$23,950..... \$654.50 plus 8% of the excess
over \$18,950

Over \$23,950..... \$1,054.50 plus 9.3% of the excess
over \$23,950

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

~~(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.~~

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

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

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

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

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

~~(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

(j) (1) For each taxable year beginning on and after January 1, 2010, there shall be imposed on every taxpayer who is a resident of this state for any portion of the taxable year, in addition to all other taxes provided for in this section, a tax in the amount of 17.5 percent of the taxpayer's taxable income for taxpayers whose adjusted gross income exceeds two hundred fifty thousand dollars (\$250,000) in the case of married taxpayers filing joint tax returns, or one hundred fifty thousand dollars (\$150,000) in the case of single taxpayers and taxpayers filing as head of household. Married taxpayers filing separate tax returns will each be liable for the additional tax imposed under this paragraph if the combined adjusted gross income of both spouses exceeds two hundred fifty thousand dollars (\$250,000). For purposes of this subdivision, the net taxable income of a personal service corporation shall be included in the taxable income of its owner(s).

(2) For each taxable year beginning on and after January 1, 2010, there shall be imposed on every taxpayer who is a resident of this state for any portion of the taxable year, in addition to all other taxes provided for in this section, including paragraph (1) of subdivision (j), an additional tax in the amount of 17.5 percent of the taxpayer's taxable income for taxpayers whose adjusted gross income exceeds five hundred thousand dollars (\$500,000) in the case of married taxpayers filing joint tax returns, or three hundred fifty thousand dollars (\$350,000) in the case of single taxpayers and taxpayers filing as head of household. Married taxpayers filing separate tax returns will each be liable for the

additional tax imposed under this paragraph if the combined adjusted gross income of both spouses exceeds five hundred thousand dollars (\$500,000). For purposes of this subdivision, the net taxable income of a personal service corporation shall be included in the taxable income of its owner(s).

SECTION 7. Section 17065.3 is added to the Revenue and Taxation Code, to read:

17065.3 (a) For each taxable year beginning on or after January 1, 2010, there shall be allowed as a credit against the "net tax," as defined in Section 17039, for a qualified person an amount equal to the teacher credit amount.

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

- (1) "Qualified person" means a person who teaches in a public or private postsecondary institution in the state or a public or private kindergarten, elementary, secondary, or vocational-technical school in the state.
- (2) "Teacher credit amount" means an amount equal to 25 percent of the total remuneration received by the qualified person during the taxable year for providing teaching services, not to exceed 25 percent of the wages subject to tax under the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101 and following).

(c) In the case of a qualified person whose credit under this section exceeds the person's liability computed under this part, the excess shall be credited against other amounts due, if any, from the person and the balance, if any, shall be refunded to the person.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

SECTION 8. Section 17065.4 is added to the Revenue and Taxation Code, to read:

17065.4 (a) For each taxable year beginning on or after January 1, 2010, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the higher education costs credit amount.

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

- (1) "Higher education costs credit amount" means an amount equal to 85 percent of the applicable costs paid or incurred by the taxpayer during the taxable year.

(2)(A) "Applicable costs" means the tuition and fees paid or incurred by the taxpayer during the taxable year for any person, including the taxpayer and any other person regardless of the person's relationship to the taxpayer, at a California campus of the University of California, a community college, or other public university or public college.

(B) Notwithstanding subparagraph (A), "applicable costs" do not include any of the following:

(i) Tuition or fees for which the taxpayer received reimbursement by a grant, scholarship, fellowship, gift, abatement or a similar form of reimbursement.

(ii) Tuition or fees paid or incurred during the taxable year that exceed the following amounts:

(I) For undergraduate studies at a campus of the University of California, ten thousand dollars (\$10,000).

(II) For studies at graduate and professional schools at a campus of the University of California, twenty thousand dollars (\$20,000).

(III) For studies at a community college, one thousand dollars (\$1,000).

(IV) For studies at a public university or public college not described in subclauses (I) to (III), inclusive, five thousand dollars (\$5,000).

(c) In the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer. The credit provided by this section is available to any lawful resident of the United States.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

(e) Notwithstanding any other law, in lieu of the tax credit authorized by this section, the Legislature may appropriate funds annually which provide comparable benefits to eligible persons. In any year in which the Legislature fails to appropriate funds comparable to the benefits provided by this section, this section remains or becomes operative for eligible persons.

SECTION 9. Section 17065.5 is added to the Revenue and Taxation Code, to read:

17065.5. (a) Except as otherwise provided in paragraph (2) of subdivision (c), for each taxable year beginning on or after January 1, 2010, there shall be allowed as a credit against the "net tax," as defined in Section 17039, due on the final return filed for a deceased person whose body part was donated and accepted for transplantation purposes in an amount determined under subdivision (b), not to exceed five thousand dollars (\$5,000).

(b) The amount of the credit under subdivision (a) shall be equal to the following applicable amounts:

(1) If the deceased person donated a heart, kidney, liver, lung, pancreas, or other vital body organ that was accepted for transplant, five thousand dollars (\$5,000).

(2) If the deceased person donated a body part that is not described in paragraph (1) and that body part was accepted for transplant, five hundred dollars (\$500).

(c) (1) Except as provided otherwise in paragraph (2), in the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer.

(2) The legal representative of a decedent who donated a heart, kidney, liver, lung, pancreas, or other vital body organ that was accepted for transplant may, in lieu of the credit allowed to that deceased person under subdivision (a), apply to the Controller for the immediate payment of five thousand (\$5,000). The Controller shall, no more than 72 hours after receiving the application, pay the legal representative that amount if he or she demonstrates that the funds are needed for the donor's funeral or medical expenses.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

SECTION 10. Section 17065.6 is added to the Revenue and Taxation Code, to read:

17065.6 (a) For each taxable year beginning on or after January 1, 2013, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the health care costs credit amount to a taxpayer who is a legal resident of the state and has been a resident of California for a period of not less than five years. A taxpayer must be a resident in the year benefits under this section are claimed.

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

(1) "Health care costs credit amount" means an amount equal to 85 percent of the amount paid by the taxpayer during the taxable year for health insurance or a health

care service plan for the taxpayer, members of the taxpayer's household and the taxpayer's dependents. The "amount paid by the taxpayer" upon which the credit is determined shall not exceed eight thousand dollars (\$8,000).

(2) "Health insurance" and "health service plan" do not include Medicare, Medi-Cal, or Medicaid.

(c) Only one taxpayer per household is allowed the credit authorized by this section.

(d) In the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer.

(e) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (d).

(f) Notwithstanding any other law, in lieu of the tax credit authorized by this section, the Legislature may enact a statute to establish a policy or policies of health insurance or a health care service plan that provides a basic package of benefits and to require eligible taxpayers to accept a voucher with which to purchase the policy or policies.

SECTION 11. Section 17065.7 is added to the Revenue and Taxation Code, to read:

17065.7 (a) For each taxable year beginning on or after January 1, 2013, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the Medicare costs credit amount to a taxpayer who is a lawful resident of the state.

(b) For purposes of this section, "Medicare costs credit amount" means the sum of the following applicable amounts:

(1) An amount equal to 85 percent of the amount paid or incurred by the taxpayer during the taxable year for premiums under Medicare Parts A, B and D.

(2) An amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for a medigap policy. The amount described in this paragraph shall not exceed two thousand five hundred dollars (\$2,500).

(c) In the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

(e) Notwithstanding any other law, in lieu of the tax credit authorized by this section, the Legislature may enact a statute to establish a policy or policies of health insurance or a health care service plan that provides a basic package of benefits and to require eligible taxpayers to accept a voucher with which to purchase the policy or policies.

SECTION 12. Section 17065.8 is added to the Revenue and Taxation Code, to read:

17065.8. (a) For each taxable year beginning on or after January 1, 2010, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the property tax credit amount to a taxpayer who is a legal resident of the state.

(b) For the purpose of this section, all of the following apply:

(1) "Ad valorem property taxes" means the taxes described in Section 1 of Article XIII A of the California Constitution.

(2) "Property tax credit amount" means the amount by which the ad valorem property taxes paid by the taxpayer on his or her principal residence during the taxable year exceeds 1 percent of the taxpayer's adjusted gross income. The amount described in this paragraph shall not exceed five thousand dollars (\$5,000).

(3) "Resident" does not include a part-year resident.

(4) Notwithstanding any other law, married taxpayers shall be allowed the credit authorized by this section only if the couple files a joint return for the taxable year for which the credit is claimed.

(c) In the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

SECTION 13. Section 23780 is added to the Revenue and Taxation Code, to read:

23780. (a) For each taxable year beginning on or after January 1, 2010, and before January 1, 2038, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount described in subdivision (b) for an organization described in subdivision (b).

(b) The credit amount allowed under subdivision (a) shall be in the following amounts for the following organizations:

(1) The Center for the Improvement of Child Caring (23-7385759), 6260 Laurel Canyon Boulevard, North Hollywood, California 91606 – five million dollars (\$5,000,000).

(2) The Nature Network, Inc. (95-4218169), 3145 Coolidge Avenue, Los Angeles, California 90066 - five million dollars (\$5,000,000).

(3) The Marine Mammal Center (51-0144434), Marin Headlands, 1065 Fort Cronkhite, Sausalito, California 94965 – five million dollars (\$5,000,000).

(4) Restore Hetch Hetchy (77-0551533), Sonoma, CA 95370 – five million dollars (\$5,000,000).

(5) Sea Shepherd Conservation Society c/o Paul Watson, P.O. Box 2616, Friday Harbor, Washington 98250 – twenty-five million dollars (\$25,000,000).

(c) In the case of a taxpayer whose credit under this section exceeds the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be refunded to the taxpayer within 90 days after the taxpayer's return is filed.

(d) Notwithstanding Section 13340 of the Government Code, moneys in the General Fund are hereby appropriated, without regard to fiscal years, to the Controller to make the refund payments required by subdivision (c).

SECTION 14. Section 14 is added to Article XIII B of the Constitution to read:

SEC. 14(a). "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenues from the additional tax under Revenue and Taxation Code Section 17041(j). No adjustment in the appropriations limit of any entity of government shall be required as a result of revenue being deposited into the General Fund and/or the Environmental Superfund pursuant to Section 17041(j) or appropriated pursuant to the provisions of Revenue and Taxation Code Sections 17065.3, 17065.4, 17065.5, 17065.6, 17065.7, 17065.8 and 23780 hereinabove.

(b). "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenues from the Wealth Tax and the Hasta La Vista Tax under Revenue and Taxation Code Section 13302 and 17065.9. No adjustment in the appropriations limit of any entity of government shall be required as a result of revenue being deposited into the Environmental Superfund pursuant to Sections 13302 and 17065.9 or appropriated pursuant to the provisions of Revenue and Taxation Code Section 13304.

SECTION 15. SURPLUS

(a) Any excess of tax receipts over tax expenditures, in respect of the tax receipts pursuant to Revenue and Taxation Code Section 17041(j) over tax expenditures pursuant to Sections 17065.3, 17065.4, 17065.5, 17065.6, 17065.7, 17065.8 and 23780, shall be transferred not less than annually to the Environmental Superfund.

(b) For five consecutive years, beginning after the date of enactment, the Administrators of the Environmental Superfund shall transfer twenty-five billion dollars (\$25,000,000,000) per year, not less than annually, to the General Fund. For each year thereafter, the Administrators of the Environmental Superfund shall transfer ten billion dollars (\$10,000,000,000) per year, not less than annually, to the General Fund.

SECTION 16. Annual Appropriation

From the additional tax revenues received pursuant to Revenue and Taxation Code Section 17041(j), the Legislature shall make an annual appropriation, if one is required by law, for the tax credits provided for in Revenue and Taxation Code Sections 17065.3, 17065.4, 17065.5, 17065.6, 17065.7, 17065.8 and 23780.

SECTION 17. Section 17065.9 is added to the Revenue and Taxation Code, to read:

SECTION 17065.9 *Hasta La Vista Tax.*

(1) Taxpayers who have been residents of California for five years or more prior to the date of enactment and who cease to be residents of California at any time during the year of enactment, or at any time thereafter, including by reason of death, shall be liable to file a final personal income tax return as of the date their residency ends and to report thereon all items of income and gain, less allowable deductions and losses, for the final part-year period of their residency, in accordance with established statutes and regulations, and further to report thereon deemed gains or losses on the sale of all assets as if those assets had been sold for their fair market values on the date the taxpayer's residency terminated and to report thereon income and gains resulting from a deemed liquidation of all other assets, including but not limited to deferred compensation plans, pension and profit sharing plans and entitlements, joint tenancies, interests in trust, installment notes receivable and property interests of every kind. Pension entitlements shall be valued according to generally accepted actuarial valuation principles, but with an assumed future interest rate of 3% in every instance. The meaning of the term "fair market value" in this section shall exclude non-marketability, lack-of-control and minority-interest discounts, commissions and other costs of sale or liquidation.

(2) For taxpayers whose taxable income pursuant to this section exceeds ten million dollars (\$10,000,000) the tax rate shall be 36.8% on the first ten million dollars (\$10,000,000) of taxable income and 54.3% on the excess. For all other taxpayers, the rate of tax applied to taxable income computed pursuant to this section shall be computed under Revenue and Taxation Code Section 17041(a) and Revenue and Taxation Code Section 17041(j), when applicable, subject to a five million dollars of taxable income (\$5,000,000) exemption amount. Taxpayers shall file their tax returns, under this part, as single persons, using community property laws in the determination of the reportable taxable income of each taxpayer.

(3) Taxpayers liable for the Wealth Tax pursuant to SECTION 5 of this Act are not liable for further taxes under this section.

(4) Revenues, net of refunds pursuant to this section, shall be deposited into the Environmental Superfund.

SECTION 18. The provisions of this measure are severable. If any provision of this measure or the application of the provisions of this measure is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 19. Except as otherwise provided, this measure shall be operative for each taxable year beginning on and after January 1, 2010.