

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Committee on

Author: Rev. and Taxation Analyst: David Scott Bill Number: AB 1580

Related Bills: AB 1561 (2007/2008) Telephone: 845-5806 Amended Date: June 26, 2009

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Conformity Act of 2009

SUMMARY

This bill would change California's specified date of conformity to federal income tax law from January 1, 2005, to January 1, 2009, and thereby, in general, conform to the numerous changes made in federal income tax law during that four-year period.

SUMMARY OF AMENDMENTS

The June 26, 2009, amendments removed the previous provisions of the bill and added the conformity language discussed in this analysis.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to conform to numerous changes in federal law to simplify the preparation of California income tax returns.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy. Thus, it would be effective immediately, and unless otherwise specified, it would apply to taxable years beginning on or after January 1, 2009.

POSITION

Pending.

Summary of Suggested Amendments

Technical amendments are necessary and will be provided to the author.

Board Position:

_____ S _____ NA _____ NP
_____ SA _____ O _____ NAR
_____ N _____ OUA X PENDING

Department Director

Date

Selvi Stanislaus

7/3/09

ANALYSIS

FEDERAL/STATE LAW

See Franchise Tax Board's (FTB's) annual reports titled "[Summary of Federal Income Tax Changes – 2005](#)," "[Summary of Federal Income Tax Changes – 2006](#)," "[Summary of Federal Income Tax Changes – 2007](#)," and "[Summary of Federal Income Tax Changes – 2008](#)" for a detailed discussion of federal and state law.

THIS BILL

This bill would change the specified date from January 1, 2005, to January 1, 2009, for taxable years beginning on or after January 1, 2009. Changing the specified date automatically conforms state law to all changes from January 1, 2005, through December 31, 2008, to Internal Revenue Code (IRC) sections that have been previously incorporated by reference. Thus, California law would conform to most of the changes made to the federal income tax law during that four-year period.

This bill would also make numerous changes either to specifically not conform to or to modify certain items in the IRC. In addition, technical changes regarding cross references and deletion of unnecessary language that was used to conform to federal law changes subsequent to January 1, 2005, and prior to January 1, 2009, are being made by this bill.

The following tables list:

- The federal Act sections that impact provisions of the Personal Income Tax Law (PITL), Administration of Franchise and Income Tax Law (AFITL), and Corporation Tax Law (CTL);
- The beginning page number in FTB's annual report where that provision is discussed; and
- The change under this bill -- whether AB 1580 conforms or does not conform to that provision. (Note that conformity decisions that require modification are listed in the conform column.)

For certain federal provisions, California law automatically conforms to a federal law change and those provisions are not listed and not discussed in this analysis. Additionally, those federal provisions that are not applicable to the PITL, AFITL, and CTL are not listed and not discussed in this analysis.

2005 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 2 – Disaster Mitigation Payments Act (PL 109-7)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Proper Tax Treatment of Certain Disaster Mitigation Payments	9	X	

Table 3 – ETIA of 2005 (PL 109-58)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1308	Electric Transmission Property Treated As 15-year Property	38	PIT	CORP
1309	Expansion of Amortization For Certain Atmospheric Pollution Control Facilities In Connection With Plants First Placed in Service after 1975	40	X	
1310	Modification to Special Rules For Nuclear Decommissioning Cost	41	X	
1323	Temporary Expensing for Equipment Used in Refining Liquids Fuels	50		X
1324	Pass Through to Owners of Deduction for Capital Costs Incurred By Small Refiner Cooperatives in Complying With EPA Sulfur Regulations	54		X
1325	Natural Gas Distribution Lines Treated As 15-Year Property	57	PIT	CORP
1326	Natural Gas Gathering Lines Treated As 7-Year Property	59	PIT	CORP
1328	Determination of Small Refiner Exception to Oil Depletion Deduction	67	X	
1329	Amortization of Geological and Geophysical Expenditures	68		X
1331	Energy Efficient Commercial Buildings Deduction	71		X
1351	Expansion of Research Credit	101		X
1363	Modification of Recapture Rules for Amortizable Section 197 Intangibles	107	X	

Table 5 – GO Zone Act of 2005 (PL 109-135)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
101-F	Expensing for Certain Demolition and Clean-up Costs	182		X
101-O	Treatment of Public Utility Disaster Losses	203		X
303	Modification of Effective Date of Exception from Suspension Rules for Certain Listed and Reportable Transactions	253	X	
305	Disclosures of Certain Tax Return Information	256		X
401-423	Tax Technical Provisions	261	X	

2006 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 1 – TIPRA of 2005 (PL 109-222)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Title II	OTHER PROVISIONS			
201	Clarification of Taxation of Certain Settlement Funds	23	X	
202	Modification of Active Business Definition under Section 355	25	X	
204	Capital Gains Treatment for Certain Self-Created Musical Works	31	X	
207	Amortization of Expenses Incurred in Creating or Acquiring Music or Music Copyrights	38	X	
209	Modification of Treatment of Loans to Qualified Continuing Care Facilities	43	X	
Title V	REVENUE OFFSET PROVISIONS			
501	Application of Earnings Stripping Rules to Partners Which are Corporations	50	X	
503	5-Year Amortization of Geological and Geophysical Expenditures for Certain Major Integrated Oil Companies	53		X

Table 1 – TIPRA of 2005 (PL 109-222)				
507	Section 355 Not to Apply to Distributions Involving Disqualified Investment Companies	65	X	
510	Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parent's Income	75	X	

Table 3 – Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income (PL 109-264)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income	101	X	

Table 4 – Pension Protection Act of 2006 (PPA) (PL 109-280)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Title I	REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS			
112	Minimum Funding Standards; Funding Rules for Single-Employer Defined Benefit Pension Plans	103	X	
113	Benefit Limitations Under Single-Employer Plans	125	X	
Title II	FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS			
211	Funding Rules for Multiemployer Defined Benefit Plans	143	X	
212	Additional Funding Rules for Multiemployer Plans in Endangered or Critical Status	151	X	
221	Sunset of Additional Funding Rules	177	X	

Table 4 – Pension Protection Act of 2006 (PPA) (PL 109-280)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Title VIII	PENSION RELATED REVENUE PROVISIONS			
Subtitle C	Improvements in Portability, Distributions, and Contribution Rules			
827	Penalty-Free Withdrawals from Retirement Plans for Individuals Called to Active Duty for at Least 179 Days	290	X	
828	Waiver of 10% Early Withdrawal Penalty Tax on Certain Distributions of Pension Plans for Public Safety Employees	293	X	
831	Allowance of Additional IRA Payments in Certain Bankruptcy Cases	298	X	
833	Inflation Indexing of Gross Income Limitations on Certain Retirement Savings Incentives	301	X	
Subtitle D	Health and Medical Benefits			
844	Treatment of Annuity and Life Insurance Contracts with a Long-Term Care Insurance Feature	315		X
Subtitle F	Other Provisions			
863	Treatment of Death Benefits from Corporate-Owned Life Insurance	335	X	
866	Exemption of Income from Leveraged Real Estate Held by Church Plans	345	X	
868	Gratuitous Transfer for Benefits of Employees	348	X	
Title XII	PROVISIONS RELATING TO EXEMPT ORGANIZATIONS			
Subtitle B	Reforming Exempt Organizations			
Part 1	General Reforms			
1211	Reporting on Certain Acquisitions of Interests on Insurance Contracts in Which Certain Exempt Organizations Hold an Interest	429	X	

Table 4 – Pension Protection Act of 2006 (PPA) (PL 109-280)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1213	Reform of Charitable Contributions of Certain Easements in Registered Historic Districts and Reduced Deduction for Portion of Qualified Conservation Contribution Attributable to Rehabilitation Credit	437	X	
1214	Charitable Contributions for Taxidermy Property	443	X	
1215	Recapture of Tax Benefit for Charitable Contributions of Exempt Use Property Not Used for an Exempt Use	446	X	
1216	Limitation of Deduction for Charitable Contributions of Clothing and Household Items	451	X	
1217	Modification of Recordkeeping Requirements for Certain Charitable Contributions	455	X	
1218	Contributions of Fractional Interests in Tangible Personal Property	457	X	
1219	Provisions Relating to Substantial and Gross Overstatements of Valuations	460	X	
1220	Additional Standards for Credit Counseling Organizations	465	X	
1222	Definition of Convention or Association of Churches	479	X	
1223	Notification Requirement for Entities Not Currently Required to File	481	X	
Part 2	Improved Accountability of Donor Advised Funds			
1231-1235	Excise Taxes Relating to Donor Advised Funds, Excess Benefit Transactions Involving Donor Advised Funds and Sponsoring Organizations, Excess Business Holdings of Donor Advised Funds, Returns of, and Application for Recognition by Sponsoring Organizations	492		X
Part 3	Improved Accountability of Supporting Organizations			
1241-1245	Requirements for Supporting Organizations, Excess Benefit Transactions Involving Supporting Organizations, Excess Business Holding of Supporting Organizations, Treatment of Amounts Paid to Supporting Organizations by Private Foundations, and Returns of Supporting Organizations	510		X

Table 5 – TRHCA of 2006 (PL 109-432)				
		FTB's Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Division A	Extension and Expansion of Certain Tax Relief Provisions and Other Tax Provisions			
Title I	EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS			
104	Extension and Modification of Research Credit	538		X
122B	Disclosure of Return Information Regarding Terrorist Activity	577		X
Title II	ENERGY TAX PROVISIONS			
204	Deduction for Energy Efficient Commercial Buildings	589		X
209	Special Depreciation Allowance for Cellulosic Biomass Ethanol Plant Property	597		X
Title IV	OTHER PROVISIONS			
402	Credit for Prior Year Minimum Tax Liability Made Refundable After Period of Years	616		X
404	Partial Expensing for Advance Mine Safety Equipment	620		X
406	Whistleblower Reforms	624		X
407	Frivolous Tax Submissions	626	X	
409	Clarification of Taxation of Certain Settlement Funds Made Permanent – Effective in Taxable Year 2011.	629	X	
410	Modification of Active Business Definition Under Section 355 Made Permanent – Effective in Taxable Year 2011.	630	X	
412	Capital Gains Treatment for Certain Self- Created Musical Works Made Permanent	635	X	
417	Exclusion of Gain from Sale of Principal Residence by Certain Employees of the Intelligence Community	648	X	
418	Sale of Property by Judicial Officers	650	X	
424	Modification of Excise Tax on Unrelated Business Taxable Income of Charitable Remainder Trusts	661		X
425	Loans to Qualified Continuing Care Facilities Made Permanent – Effective in Taxable Year 2011	662	X	
426	Technical Corrections	664	X	

2007 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 1 – The Small Business Work Opportunity Act (SBWOTA) of 2007 (PL 110-28)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
8215	Family business tax simplification	17	X	
8233	Recapture of bad debt reserves	32	X	
8234	Treatment of sale of interest in a qualified subchapter S subsidiary	33	X	
8236	Permit interest deduction to an electing small business trust to acquire S corporation stock	35	X	
8241	Increase in age of minor children whose unearned income is taxed as if parents' income	37	X	
8242	Modify interest suspension under 6404(g) from 18 to 36 months	39	X	
8245	Increase in penalty for bad checks and money orders	43	X	
8246	Understatement of taxpayer liability by return preparers	44		X
8247	Penalty for filing erroneous refund claims	46		X

Table 2 - Title XV of the Energy Independence and Security Act (EISA) of 2007(PL 110-140)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1502	7-year amortization of geological and geophysical expenditures for major integrated oil companies	59		X

Table 3 – The Virginia Tech Victims and Family Assistance Act (PL 110-141)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Exclude from income payments from Hokie Spirit Memorial Fund	63	X	
2	Modify penalty for failure to file partnership returns	64		X

Table 4 – The Mortgage Forgiveness Debt Relief Act (MFDRA) (PL 110-142)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1 - 2	Exclusion of discharge of principal residence indebtedness	66	SB 1055 (2007/2008)	
3	Extension of deduction for private mortgage insurance	68		X
4	Change in tests to qualify as cooperative housing corporation	70	X	
5	Exclusion from income for benefits provided to volunteer EMS and firefighters	71	X	
6	Modify the prohibition against full-time students from qualifying for LIHTC unit	74	X	
7	Allow surviving spouse to exclude from gross income up to \$500,000 of the gain from sale of principal residence if the sale occurs within 2 years of the death of the spouse	76	X	
8	Increase penalty for failure to file partnership returns	77	X (20% of federal penalty)	
9	Impose a penalty for failure to file S corporation returns	79	X (20% of federal penalty)	

Table 6 – The Tax Technical Corrections Act of 2007 (PL 110-172)				
		FTB's 2007 Annual Report Page No.	Decision	
			Conform	Not Conform
	The Tax Technical Correction Act of 2007 (TTCA)	85	X	

2008 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 2 – Heartland, Habitat, Harvest, and Horticulture Act of 2008 (HHHHA)(PL 110-246)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
15302	Two-Year Extension of Special Rule Encouraging Contributions of Capital Gain Real Property For Conservation Purposes	17	X	
15303	Deduction for Endangered Species Recovery Expenditures	21	X	
15344	Three Year Depreciation for Race Horses That are Two Years Old or Younger	46	PIT	CORP
15351	Limitation of Excess Farm Losses of Certain Taxpayer	52		X
15353	Information Reporting for Commodity Credit Corporation Transactions	56	X	

Table 3 – Heroes Earnings Assistance and Relief Tax Act of 2008 (HEARTA)(PL 110-245)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
107	Distribution from Retirement Plans to Individuals Called to Active Duty	75	X	
109	Contributions of Military Death Gratuities to Roth IRAs and Education Savings Accounts	78	X	

Table 3 – Heroes Earnings Assistance and Relief Tax Act of 2008 (HEARTA)(PL 110-245)				
110	Suspension of 5-Year Period during Service with the Peace Corps	82	X	
112	State Payments to Service Members Treated as Qualified Military Benefits	86	X	
113	Permanent Exclusion of Gain from Sale of a Principal Residence by Certain Employees of the Intelligence Community	87	X	
114	Special Disposition Rules for Unused Benefits in Health Flexible Spending Arrangements of Individuals Called to Active Duty	89	X	
303	Increase in Minimum Penalty on Failure to File a Return of Tax	108	X	

Table 4 – Housing and Economic Recovery Act of 2008 (HERA)(PL 110-289)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
3001-3005	Various Housing Tax Incentives Related to the Low-Income Housing Tax Credit	111	X	
3091	Returns relating to Payments made in Settlement of Payment Card and Third-Party Network Transactions	182	X	
3092	Gain from Sale of Principal Residence Allocated to Nonqualified Use Not Excluded from Income	185	X	

Table 5 – Hubbard Act of 2008 (PL 110-317)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
9	Repeal of Dollar Limitation on Contributions to Funeral Trusts	194	X	

Table 6 – Emergency Economic Stabilization Act of 2008 (EESA)(PL 110-343)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
<i>EESA Division A, Title III - Tax Provisions</i>				
301	Gain or Loss from Sale or Exchange of Certain Preferred Stock	195		X
302	Special Rules for Tax Treatment of Executive Compensation of Employers Participating in the Troubled Assets Relief Program	198	X	
303	Extension of Exclusion of Income from Discharge of Qualified Principal Residence Indebtedness	208	X	
<i>EESA Division B, Title I, Subtitle B - Carbon Mitigation and Coal Provisions</i>				
116	Certain Income and Gains Relating to Industrial Source Carbon Dioxide Treated as Qualifying Income for Publicly Traded Partnerships	243	X	
<i>EESA Division B, Title II - Energy Production Incentives</i>				
201	Inclusion of Cellulosic Biofuel in Bonus Depreciation for Biomass Ethanol Plant Property	245		X
208	Certain Income and Gains Relating to Alcohol Fuels and Mixtures, Biodiesel Fuels and Mixtures, and Alternative Fuels and Mixtures Treated as Qualifying Income for Publicly Traded Partnerships	266	X	
209	Extension and Modification of Election to Expense Certain Refineries	268		X
<i>EESA Division B, Title III - Energy Conservation and Efficiency Provisions</i>				
303	Energy Efficient Commercial Buildings Deduction	281		X
306	Accelerated Recovery Period for Depreciation of Smart Meters and Smart Grid Systems	289	PIT	CORP
308	Special Depreciation Allowance for Certain Reuse and Recycling Property	293		X
<i>EESA Division C, Title II - Extension of Individual Tax Provisions</i>				
204	Additional Standard Deduction for Real Property Taxes for Nonitemizers	323		X

<i>EESA Division C, Title III - Extension of Business Tax Provisions</i>				
301	Extension and Modification of Research Credit	335		X
305	Extension of 15-Year Straight-Line Cost Recovery for Qualified Leasehold Improvements and Qualified Restaurant Improvements; 15-Year Straight Line Cost Recovery for Certain Improvements to Retail Space	350		X
306	Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations	354	X	
307	Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property	356	X	
311	Extension of Election to Expense Advanced Safety Mine Equipment	363		X
317	Seven-Year Cost Recovery Period for Motorsports Racing Track Facility	376	PIT	CORP
323	Enhanced Charitable Deductions for Contributions of Food Inventory	386	X	
324	Extension of Enhanced Charitable Deduction for Contributions of Book Inventory	388	X	
<i>EESA Division C, Title IV - Extension of Tax Administration Provisions</i>				
402	Permanent Authority for Disclosure of Information Relating to Terrorists Activities	392		X
<i>EESA Division C, Title V, Subtitle A - General Provisions</i>				
505	Certain Farming Business Machinery and Equipment Treated as 5-Year Property	401	PIT	CORP
506	Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer	403	X	
<i>EESA Division C, Title VII, Subtitle A - Heartland and Hurricane Ike Disaster Relief</i>				
703	Reporting Requirements Relating to Disaster Relief Contributions	409	X	
<i>EESA Division C, Title VII, Subtitle B - National Disaster Relief</i>				
706	Losses Attributable to Federally Declared Disasters	411		X
707	Expensing of Qualified Disaster Expenses	413		X
708	Net Operating Losses Attributable to Federally Declared Disasters	417		X

710	Special Depreciation Allowance for Qualified Disaster Property	425		X
711	Increased Expensing for Qualified Disaster Assistance Property	429		X
<i>EESA Division C, Title VIII - Spending Reductions and Appropriate Revenue Raisers for New Tax Policy Relief</i>				
801	Nonqualified Deferred Compensation from Certain Tax Indifferent Parties	431		X

Table 7 – Worker, Retiree, and Employer Recovery Act of 2008 (WRERA)(PL 110-458)				
		FTB's 2008 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
124	Treatment of Certain Reimbursements from Governmental Plans for Medical Care	457	X	
127	Modification of Penalty for Failure to File Partnership Returns	462	X (20% of the federal penalty)	
128	Modification of Penalty for Failure to File S Corporation Returns	464	X (20% of the federal penalty)	

PROGRAM BACKGROUND

The PITL and the CTL, in general, conform to the IRC either by reference to federal law as of a “specified date” or by stand-alone language that mirrors the federal provision. Currently, California law is conformed to the IRC as of January 1, 2005, unless a specific provision provides otherwise.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. (*Florida* imposes corporate income tax, but does not does not impose personal income tax.)

Illinois, Michigan, and New York automatically conform each taxable year to the IRC. *Florida, Massachusetts and Minnesota* conform to the IRC as of a specified date, similar to California. *Florida* conforms to the IRC as amended through January 1, 2008. *Massachusetts* conforms to the IRC as amended through January 1, 2005. *Minnesota* conforms to the IRC as amended through December 31, 2008.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

Based on data and assumptions discussed below, the revenue impact of conformity is shown in the following tables. Items that impact the measure of tax (tax revenue) are summed for each year, as are items that do not impact the measure of tax (penalty and interest revenue). Penalty and interest provisions are identified by an asterisk (*).

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Summary Revenue Estimate for AB 1580 as Amended June 26, 2009				
Assumed Enactment After June 30, 2009				
	2008-09	2009-10	2010-11	2011-12
Tax Revenue Totals		-\$18,488,000	-\$6,704,000	-\$2,333,000
Penalty and Interest Totals	\$1,300,000	\$10,875,000	\$10,600,000	\$12,050,000
Grand Totals	\$1,300,000	-\$7,613,000	\$3,896,000	\$9,717,000

2005 Conformity Revenue Tables

Table 2 – Conformity Revenue Estimates for Disaster Mitigation Payments Act (PL 109-7)					
For Amounts Received or Dispositions Made Before, On, Or After April 15, 2005					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
1	Proper Tax Treatment of Certain Disaster Mitigation Payments		\$0	\$0	\$0

Table 3 – Conformity Revenue Estimates for ETIA of 2005 (PL 109-58)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
1308	Electric Transmission Property Treated As 15-year Property		-\$100,000	-\$200,000	-\$300,000
1309	Expansion of Amortization For Certain Atmospheric Pollution Control Facilities In Connection With Plants First Placed in Service after 1975		\$0	\$0	\$0
1310	Modification to Special Rules For Nuclear Decommissioning Cost		-\$3,700,000	-\$2,500,000	-\$2,200,000
1325	Natural Gas Distribution Lines Treated As 15-Year Property		-\$500,000	-\$600,000	-\$900,000
1326	Natural Gas Gathering Lines Treated As 7-Year Property		-\$30,000	-\$20,000	-\$20,000
1328	Determination of Small Refiner Exception to Oil Depletion Deduction		-\$900,000	-\$700,000	-\$700,000
1363	Modification of Recapture Rules for Amortizable Section 197 Intangibles		\$800,000	\$600,000	\$700,000

Table 5 – Conformity Revenue Estimates for GO Zone Act of 2005 (PL 109-135) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
303 *	Modification of Effective Date of Exception from Suspension Rules for Certain Listed and Reportable Transactions		\$0	\$0	\$0
401	Tax Technical Provisions		\$0	\$0	\$0

2005 Totals	2008-09	2009-10	2010-11	2011-12
2005 Tax Revenue Totals		-\$4,430,000	-\$3,420,000	-\$3,420,000
2005 Penalty and Interest Totals		\$0	\$0	\$0
2005 Grand Totals		-\$4,430,000	-\$3,420,000	-\$3,420,000

2006 Conformity Revenue Tables

Table 1 – Conformity Revenue Estimates for TIPRA of 2005 (PL 109-222) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
Title II	OTHER PROVISIONS				
201	Clarification of Taxation of Certain Settlement Funds	Included in Act Section 409 of TRHCA of 2006			
202	Modification of Active Business Definition under Section 355	Included in Act Section 410 of TRHCA of 2006			
204	Capital Gains Treatment for Certain Self-Created Musical Works	Included in Act Section 412 of TRHCA of 2006			
207	Amortization of Expenses Incurred in Creating or Acquiring Music or Music Copyrights		\$40,000	\$20,000	-\$20,000
209	Modification of Treatment of Loans to Qualified Continuing Care Facilities	Included in Act Section 425 of TRHCA of 2006			
Title V	REVENUE OFFSET PROVISIONS	2008-09	2009-10	2010-11	2011-12
501	Application of Earnings Stripping Rules to Partners Which are Corporations		\$0	\$0	\$0
507	Section 355 Not to Apply to Distributions Involving Disqualified Investment Companies		\$700,000	\$500,000	\$500,000
510	Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parent's Income		\$7,600,000	\$6,400,000	\$7,100,000

Table 3 – Conformity Revenue Estimates for Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income (PL 109-264)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
1	Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income		Baseline	Baseline	Baseline

Table 4 – Conformity Revenue Estimates for the Pension Protection Act of 2006 (PPA)(PL 109-280)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
Title I	REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS				
112	Minimum Funding Standards; Funding Rules for Single-Employer Defined Benefit Pension Plans		Baseline	Baseline	Baseline
113	Benefit Limitations Under Single-Employer Plans		Baseline	Baseline	Baseline
Title II	FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS				
211	Funding Rules for Multiemployer Defined Benefit Plans		Baseline	Baseline	Baseline
212	Additional Funding Rules for Multiemployer Plans in Endangered or Critical Status		Baseline	Baseline	Baseline
221	Sunset of Additional Funding Rules		Baseline	Baseline	Baseline
Title VIII	PENSION RELATED REVENUE PROVISIONS				
Subtitle C	Improvements in Portability, Distributions, and Contribution Rules				
827	Penalty-Free Withdrawals from Retirement Plans for Individuals Called to Active Duty for at Least 179 Days	Included in Act Section 107 of HEARTA of 2008			
828	Waiver of 10% Early Withdrawal Penalty Tax on Certain Distributions of Pension Plans for Public Safety Employees		-\$300,000	-\$200,000	-\$200,000
831	Allowance of Additional IRA Payments in Certain Bankruptcy Cases		-\$350,000	-\$100,000	-\$80,000
833	Inflation Indexing of Gross Income Limitations on Certain Retirement Savings Incentives		-\$1,000,000	-\$2,000,000	-\$2,000,000

Table 4 – Conformity Revenue Estimates for the Pension Protection Act of 2006 (PPA)(PL 109-280) Assumed Enactment After June 30, 2009					
Subtitle F	Other Provisions				
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
863	Treatment of Death Benefits from Corporate-Owned Life Insurance		\$0	\$0	\$0
866	Exemption of Income from Leveraged Real Estate Held by Church Plans		-\$38,000	-\$18,000	-\$15,000
868	Gratuitous Transfer for Benefits of Employees		\$0	\$0	\$0
Title XII	PROVISIONS RELATING TO EXEMPT ORGANIZATIONS				
Subtitle A	Charitable Giving Incentives				
1201	Tax-Free Distributions from Individual Retirement Plans for Charitable Purposes		Baseline	Baseline	Baseline
1203	Basis Adjustment to Stock of S Corporation Contributing Property		Baseline	Baseline	Baseline
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
Subtitle B	Reforming Exempt Organizations				
Part 1	General Reforms				
1211	Reporting on Certain Acquisitions of Interests on Insurance Contracts in Which Certain Exempt Organizations Hold an Interest		Baseline	Baseline	Baseline
1213	Reform of Charitable Contributions of Certain Easements in Registered Historic Districts and Reduced Deduction for Portion of Qualified Conservation Contribution Attributable to Rehabilitation Credit		\$450,000	\$350,000	\$350,000
1214	Charitable Contributions for Taxidermy Property		\$150,000	\$100,000	\$100,000
1215	Recapture of Tax Benefit for Charitable Contributions of Exempt Use Property Not Used for an Exempt Use		Baseline	Baseline	Baseline
1216	Limitation of Deduction for Charitable Contributions of Clothing and Household Items		Baseline	Baseline	Baseline
1217	Modification of Recordkeeping Requirements for Certain Charitable Contributions		Baseline	Baseline	Baseline
1218	Contributions of Fractional Interests in Tangible Personal Property		\$350,000	\$250,000	\$250,000
1219 *	Provisions Relating to Substantial and Gross Overstatements of Valuations		\$200,000	\$100,000	\$100,000
1220	Additional Standards for Credit Counseling Organizations		\$300,000	\$200,000	\$200,000

		2008-09	2009-10	2010-11	2011-12
1222	Definition of Convention or Association of Churches		\$150,000	\$150,000	\$150,000
1223	Notification Requirement for Entities Not Currently Required to File		\$150,000	\$150,000	\$150,000

Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
Title IV	OTHER PROVISIONS				
407 *	Frivolous Tax Submissions		\$200,000	\$100,000	\$100,000
409	Clarification of Taxation of Certain Settlement Funds Made Permanent – Effective in Taxable Year 2011 ¹		-\$250,000	-\$90,000	-\$400,000
410	Modification of Active Business Definition Under Section 355 Made Permanent – Effective in Taxable Year 2011 ²		-\$500,000	-\$400,000	-\$500,000
412	Capital Gains Treatment for Certain Self-Created Musical Works Made Permanent ³		-\$150,000	-\$20,000	-\$40,000
417	Exclusion of Gain from Sale of Principal Residence by Certain Employees of the Intelligence Community	Included in Act Section 113 of HEARTA of 2008			
418	Sale of Property by Judicial Officers		-\$20,000	-\$10,000	-\$10,000
425	Loans to Qualified Continuing Care Facilities Made Permanent – Effective in Taxable Year 2011 ⁴		-\$50,000	-\$40,000	-\$70,000
426	Technical Corrections		\$0	\$0	\$0

2006 Totals	2008-09	2009-10	2010-11	2011-12
2006 Tax Revenue Totals		\$7,232,000	\$5,242,000	\$5,465,000
2006 Penalty and Interest Totals		\$400,000	\$200,000	\$200,000
2006 Grand Totals		\$7,632,000	\$5,442,000	\$5,665,000

¹ 409 - Includes revenue from Act Section 201 of TIPRA of 2005.

² 410 - Includes revenue from Act Section 202 of TIPRA of 2005.

³ 412 - Includes revenue from Act Section 204 of TIPRA of 2005.

⁴ 425 - Includes revenue from Act Section 209 of TIPRA of 2005

2007 Conformity Revenue Tables

Table 1 - Small Business and Work Opportunity Tax Act of 2007 (PL 110-28)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
8215	Family business tax simplification		Baseline	Baseline	Baseline
8233	Recapture of bad debt reserves		\$1,000,000	-\$300,000	-\$1,300,000
8234	Treatment of sale of interest in a qualified subchapter S subsidiary		-\$100,000	-\$80,000	\$90,000
8236	Permit interest deduction to an electing small business trust to acquire S corporation stock		-\$200,000	-\$150,000	-\$150,000
8241	Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parent's Income		\$6,500,000	\$4,500,000	\$4,500,000
8242 *	Modify interest suspension under 6404(g) from 18 to 36 months	\$1,300,000	\$3,200,000	\$4,100,000	\$4,500,000
8245 *	Increase in penalty for bad checks and money orders		\$500,000	\$500,000	\$500,000

Table 3 - Virginia Tech Victims and Family Assistance Act (HR 4118, PL 110-141)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
1	Exclude from income payments from Hokie Spirit Memorial Fund		-\$25,000	-\$0	-\$0

Table 4 - Mortgage Forgiveness Debt Relief Act of 2007 (HR 3648, PL 110-142)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
4	Change in tests to qualify as cooperative housing corporation		-\$80,000	-\$80,000	-\$80,000
5	Exclusion from income for benefits provided to volunteer EMS and firefighters		-\$6,000,000	-\$3,000,000	-\$1,000,000
6	Modify the prohibition against full-time students from qualifying for LIHTC unit		-\$2,000	-\$2,000	-\$2,000
7	Allow surviving spouse to exclude from gross income up to \$500,000 of the gain from sale of principal residence if the sale occurs within 2 years of the death of the spouse		-\$300,000	-\$200,000	-\$300,000
8 *	Increase penalty for failure to file partnership returns		\$3,200,000	\$1,800,000	\$1,900,000
9 *	Impose a penalty for failure to file S corporation returns		\$200,000	\$800,000	\$1,350,000

Table 6 - Technical Corrections Act of 2007 (PL 110-172) Assumed Enactment After June 30, 2009				
No Revenue Impact				

2007 Totals	2008-09	2009-10	2010-11	2011-12
2007 Tax Revenue Totals	\$0	\$793,000	\$688,000	\$1,758,000
2007 Penalty and Interest Totals	\$1,300,000	\$7,100,000	\$7,200,000	\$8,250,000
2007 Grand Totals	\$1,300,000	\$7,893,000	\$7,888,000	\$10,008,000

2008 Conformity Revenue Tables

Table 2 - Conformity Revenue Estimates for HHHHA of 2008 (Title XV of PL 110-246) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
15302	Two-Year Extension of Special Rule Encouraging Contributions of Capital Gain Real Property For Conservation Purposes		-\$1,300,000	No Impact	No Impact
15303	Deduction for Endangered Species Recovery Expenditures		-\$700,000	-\$700,000	-\$900,000
15344	Three Year Depreciation for Race Horses That are Two Years Old or Younger		-\$900,000	-\$1,000,000	-\$1,000,000
15353	Information Reporting for Commodity Credit Corporation Transactions		\$0	\$0	\$0

Table 3 - Conformity Revenue Estimates for HEARTA of 2008 (PL 110-245) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
107	Distribution from Retirement Plans to Individuals Called to Active Duty		-\$8,000	-\$6,000	-\$8,000
109	Contributions of Military Death Gratuities to Roth IRAs and Education Savings Accounts		-\$12,000	-\$7,000	-\$7,000
110	Suspension of 5-Year Period during Service with the Peace Corps		-\$6,000	-\$4,000	-\$4,000
112	State Payments to Service Members Treated as Qualified Military Benefits		\$0	\$0	\$0
113	Permanent Exclusion of Gain from Sale of a Principle Residence by Certain Employees of the Intelligence Community		-\$7,000	-\$7,000	-\$7,000

Table 3 - Conformity Revenue Estimates for HEARTA of 2008 (PL 110-245) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
114	Special Disposition Rules for Unused Benefits in Health Flexible Spending Arrangements of Individuals Called to Active Duty		\$0	\$0	\$0
303*	Increase in Minimum Penalty on Failure to File a Return of Tax		No Impact	\$150,000	\$350,000

Table 4 - Conformity Revenue Estimates for HERA of 2008 (PL 110-289) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
3001	Temporary Increase in Volume Cap for Low-Income Housing Credits		\$0	\$0	\$0
3002	Determination of Credit Rate		\$0	\$0	\$0
3003	Modification to Definition of Eligible Basis		\$0	\$0	\$0
3004	Other Simplification and Reform of Low-Income Housing Tax Incentives		\$0	\$0	\$0
3005	Treatment of Military Pay		\$0	\$0	\$0
3091	Returns relating to Payments made in Settlement of Payment Card and Third-Party Network Transactions		Baseline	Baseline	Baseline
3092	Gain from Sale of Principal Residence Allocated to Nonqualified Use Not Excluded from Income		\$1,200,000	\$3,000,000	\$4,100,000

Table 5 - Conformity Revenue Estimates for Hubbard Act of 2008 (PL 110-317) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
9	Repeal of Dollar Limitation on Contributions to Funeral Trusts		\$50,000	\$40,000	\$40,000

Table 6 - Conformity Revenue Estimates for EESA of 2008 (PL 110-343)					
Assumed Enactment After June 30, 2009					
<i>EESA Division A, Title III - Tax Provisions</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
302	Special Rules for Tax Treatment of Executive Compensation of Employers Participating in the Troubled Assets Relief Program		Indeterminate	Indeterminate	Indeterminate
303	Extension of Exclusion of Income from Discharge of Qualified Principal Residence Indebtedness		-\$9,000,000	-\$8,000,000	-\$6,000,000
<i>EESA Division B, Title I, Subtitle A - Energy Production Incentives</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
116	Certain Income and Gains Relating to Industrial Source Carbon Dioxide Treated as Qualifying Income for Publicly Traded Partnerships		-\$40,000	-\$30,000	-\$50,000
<i>EESA Division B, Title II - Energy Production Incentives</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
208	Certain Income and Gains Relating to Alcohol Fuels and Mixtures, Biodiesel Fuels and Mixtures, and Alternative Fuels and Mixtures Treated as Qualifying Income for Publicly Traded Partnerships		-\$300,000	-\$200,000	-\$250,000
<i>EESA Division B, Title III - Energy Conservation and Efficiency Provisions</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
306	Accelerated Recovery Period for Depreciation of Smart Meters and Smart Grid Systems		-\$200,000	-\$300,000	-\$400,000
<i>EESA Division C, Title III - Extension of Business Tax Provisions</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
306	Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations		-\$800,000	No Impact	No Impact
307	Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property		-\$1,800,000	-\$150,000	-\$150,000
317	Seven-Year Cost Recovery Period for Motorsports Racing Track Facility		-\$1,800,000	-\$250,000	-\$100,000
323	Enhanced Charitable Deductions for Contributions of Food Inventory		-\$2,800,000	\$0	\$0
324	Extension of Enhanced Charitable Deduction for Contributions of Book Inventory		-\$960,000	\$0	\$0

<i>EESA Division C, Title V, Subtitle A – General Provisions</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
505	Certain Farming Business Machinery and Equipment Treated as 5-Year Property		-\$2,700,000	-\$1,600,000	-\$1,400,000
506*	Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer		-\$125,000	-\$250,000	-\$250,000
<i>EESA Division C, Title VII, Subtitle A - Heartland and Hurricane Ike Disaster Relief</i>					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
703	Reporting Requirements Relating to Disaster Relief Contributions		\$0	\$0	\$0

Table 7 - Conformity Revenue Estimates for WRERA of 2008 (PL 110-458) Assumed Enactment After June 30, 2009					
Title I, Subtitle B, Other Provisions					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
124	Treatment of Certain Reimbursements from Governmental Plans for Medical Care		\$0	\$0	\$0
127*	Modification of Penalty for Failure to File Partnership Returns		\$2,100,000	\$1,900,000	\$2,000,000
128*	Modification of Penalty for Failure to File S Corporation Returns		\$1,400,000	\$1,400,000	\$1,500,000

2008 Totals	2008-09	2009-10	2010-11	2011-12
2008 Tax Revenue Totals		-\$22,083,000	-\$9,214,000	-\$6,136,000
2008 Penalty and Interest Totals		\$3,375,000	\$3,200,000	\$3,600,000
2008 Grand Totals		-\$18,708,000	-\$6,014,000	-\$2,536,000

2005, 2006, 2007, and 2008 Combined Totals	2008-09	2009-10	2010-11	2011-12
2005 - 2008 Tax Revenue Totals		-\$18,488,000	-\$6,704,000	-\$2,333,000
2005 - 2008 Penalty and Interest Totals	\$1,300,000	\$10,875,000	\$10,600,000	\$12,050,000
2005 - 2008 Grand Totals	\$1,300,000	-\$7,613,000	\$3,896,000	\$9,717,000

ARGUMENTS/POLICY CONCERNS

Conforming to federal tax law is generally desirable because it is less confusing for the taxpayer. With conformity, the taxpayer is required to know only one set of rules. Additionally, the taxpayer needs to maintain only one set of books. Conformity also eases the burden of the FTB to administer the law by utilizing many federal forms, instructions, and regulations. In addition, whenever possible, the department uses federal information and audit results to verify that taxpayers pay the proper amount of tax. This eliminates the need for the taxpayer to submit the same information to both the IRS and the FTB.

LEGISLATIVE STAFF CONTACT

Legislative Analyst
David Scott
(916) 845-5806
david.scott@ftb.ca.gov

Revenue Director
Jay Chamberlain
(916) 845-3375
jay.chamberlain@ftb.ca.gov

Legislative Director
Brian Putler
(916) 845-6333
brian.pulter@ftb.ca.gov