

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Calderon Analyst: David Scott Bill Number: AB 1580  
 Related Bills: See Prior Analysis Telephone: 845-5806 Amended Date: September 1, 2009  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Conformity Act Of 2009

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended August 18, 2009.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- \_\_\_\_\_ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.
- FURTHER AMENDMENTS NECESSARY.
- \_\_\_\_\_ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED
- August 18, 2009, STILL APPLIES.
- OTHER – See comments below.

**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 September 1, 2009, amendments would make the following changes:

- **Penalty on Erroneous Refund Claims** – The adjusted-gross-income (AGI)-exception threshold would be increased. The penalty would not apply to individuals if the AGI on the original return for the taxable year is equal to or less than \$250,000 in the case of married filing joint or surviving spouse, and \$125,000 in any other case. (Previously, the AGI-exception threshold would have been \$150,000 in the case of married filing joint or surviving spouse, and \$75,000 in any other case.)
- **Related Bills** – The bill would incorporate changes made by AB 692 and SB 401 that would become operative if AB 692 or SB 401 or both bills are enacted and this bill is enacted after AB 692 or SB 401 or both bills.
- **Technical Corrections** – Technical corrections are suggested.

Board Position:	Legislative Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
_____ X PENDING	Brian Putler	09/04/09

As a result of the amendments, the "THIS BILL" and "ECONOMIC IMPACT" sections are revised. Although unchanged, the "FEDERAL/STATE LAW" section is provided for convenience.

## **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 suggested and will be provided to the author.

## **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, would be 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	

Table 3 – ETIA of 2005 (PL 109-58)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
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
<b>Title II</b>	<b>OTHER PROVISIONS</b>			
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	
<b>Title V</b>	<b>REVENUE OFFSET PROVISIONS</b>			
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
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
<b>Title I</b>	<b>REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS</b>			
112	Minimum Funding Standards; Funding Rules for Single-Employer Defined Benefit Pension Plans	103	X	
113	Benefit Limitations Under Single-Employer Plans	125	X	
<b>Title II</b>	<b>FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS</b>			
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	
<b>Title VIII</b>	<b>PENSION RELATED REVENUE PROVISIONS</b>			
<b>Subtitle C</b>	<b>Improvements in Portability, Distributions, and Contribution Rules</b>			
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	
<b>Subtitle D</b>	<b>Health and Medical Benefits</b>			
844	Treatment of Annuity and Life Insurance Contracts with a Long-Term Care Insurance Feature	315		X
<b>Subtitle F</b>	<b>Other Provisions</b>			
863	Treatment of Death Benefits from Corporate-Owned Life Insurance	335	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
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	<b>PROVISIONS RELATING TO EXEMPT ORGANIZATIONS</b>			
Subtitle B	<b>Reforming Exempt Organizations</b>			
Part 1	<b>General Reforms</b>			
1211	Reporting on Certain Acquisitions of Interests on Insurance Contracts in Which Certain Exempt Organizations Hold an Interest	429	X	
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	

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
<b>Part 2</b>	<b>Improved Accountability of Donor Advised Funds</b>			
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
<b>Part 3</b>	<b>Improved Accountability of Supporting Organizations</b>			
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
<b>Division A</b>	<b>Extension and Expansion of Certain Tax Relief Provisions and Other Tax Provisions</b>			
<b>Title I</b>	<b>EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS</b>			
104	Extension and Modification of Research Credit	538		X
122B	Disclosure of Return Information Regarding Terrorist Activity	577		X
<b>Title II</b>	<b>ENERGY TAX PROVISIONS</b>			
204	Deduction for Energy Efficient Commercial Buildings	589		X
209	Special Depreciation Allowance for Cellulosic Biomass Ethanol Plant Property	597		X

Table 5 – TRHCA of 2006 (PL 109-432)

		FTB's Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
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 (with modifications)	

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 Taxpayers	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	

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
109	Contributions of Military Death Gratuities to Roth IRAs and Education Savings Accounts	78	X	
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 (with modifications)	
<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

<b>Table 6 – Emergency Economic Stabilization Act of 2008 (EESA)(PL 110-343)</b>				
		<b>FTB's 2008 Annual Report Page No.</b>	<b>Decision</b>	
<b>Act Section</b>	<b>Provisions</b>		<b>Conform</b>	<b>Not Conform</b>
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	<b>266</b>	X	
209	Extension and Modification of Election to Expense Certain Refineries	<b>268</b>		X
<i>EESA Division B, Title III - Energy Conservation and Efficiency Provisions</i>				
303	Energy Efficient Commercial Buildings Deduction	<b>281</b>		X
306	Accelerated Recovery Period for Depreciation of Smart Meters and Smart Grid Systems	<b>289</b>	<b>PIT</b>	<b>CORP</b>
308	Special Depreciation Allowance for Certain Reuse and Recycling Property	<b>293</b>		X
<i>EESA Division C, Title II - Extension of Individual Tax Provisions</i>				
204	Additional Standard Deduction for Real Property Taxes for Nonitemizers	<b>323</b>		X
<i>EESA Division C, Title III - Extension of Business Tax Provisions</i>				
301	Extension and Modification of Research Credit	<b>335</b>		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	<b>350</b>		X
306	Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations	<b>354</b>	X	
307	Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property	<b>356</b>	X	
311	Extension of Election to Expense Advanced Safety Mine Equipment	<b>363</b>		X

<b>Table 6 – Emergency Economic Stabilization Act of 2008 (EESA)(PL 110-343)</b>				
		<b>FTB's 2008 Annual Report Page No.</b>	<b>Decision</b>	
<b>Act Section</b>	<b>Provisions</b>		<b>Conform</b>	<b>Not Conform</b>
317	Seven-Year Cost Recovery Period for Motorsports Racing Track Facility	<b>376</b>		<b>X</b>
323	Enhanced Charitable Deductions for Contributions of Food Inventory	<b>386</b>		<b>X</b>
324	Extension of Enhanced Charitable Deduction for Contributions of Book Inventory	<b>388</b>		<b>X</b>
<i>EESA Division C, Title IV - Extension of Tax Administration Provisions</i>				
402	Permanent Authority for Disclosure of Information Relating to Terrorists Activities	<b>392</b>		<b>X</b>
<i>EESA Division C, Title V, Subtitle A - General Provisions</i>				
505	Certain Farming Business Machinery and Equipment Treated as 5-Year Property	<b>401</b>		<b>X</b>
506	Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer	<b>403</b>	<b>X</b> (with modifications)	
<i>EESA Division C, Title VII, Subtitle A - Heartland and Hurricane Ike Disaster Relief</i>				
703	Reporting Requirements Relating to Disaster Relief Contributions	<b>409</b>	<b>X</b>	
<i>EESA Division C, Title VII, Subtitle B - National Disaster Relief</i>				
706	Losses Attributable to Federally Declared Disasters	<b>411</b>		<b>X</b>
707	Expensing of Qualified Disaster Expenses	<b>413</b>		<b>X</b>
708	Net Operating Losses Attributable to Federally Declared Disasters	<b>417</b>		<b>X</b>
710	Special Depreciation Allowance for Qualified Disaster Property	<b>425</b>		<b>X</b>
711	Increased Expensing for Qualified Disaster Assistance Property	<b>429</b>		<b>X</b>
<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	<b>431</b>		<b>X</b>

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)	

## ECONOMIC IMPACT

### Revenue Estimate

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.

## 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
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		-\$3,530,000	-\$2,720,000	-\$2,720,000
2005 Penalty and Interest Totals		\$0	\$0	\$0
2005 Grand Totals		-\$3,530,000	-\$2,720,000	-\$2,720,000

## 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
<b>Title II</b>	<b>Other Provisions</b>				
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			
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
<b>Title I</b>	<b>REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS</b>				
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
<b>Title II</b>	<b>FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS</b>				
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
<b>Title VIII</b>	<b>PENSION RELATED REVENUE PROVISIONS</b>				
<b>Subtitle C</b>	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
<b>Subtitle F</b>	<b>Other Provisions</b>				
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

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
<b>Subtitle A</b>	<b>Charitable Giving Incentives</b>				
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
<b>Subtitle B</b>	<b>Reforming Exempt Organizations</b>				
<b>Part 1</b>	<b>General Reforms</b>				
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
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

Table 5– Conformity Revenue Estimates for TRHCA of 2006 (PL 109-432)					
Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
<b>Title IV</b>	<b>Other Provisions</b>				
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 <sup>1</sup>		-\$250,000	-\$90,000	-\$400,000
410	Modification of Active Business Definition Under Section 355 Made Permanent – Effective in Taxable Year 2011 <sup>2</sup>		-\$500,000	-\$400,000	-\$500,000
412	Capital Gains Treatment for Certain Self-Created Musical Works Made Permanent <sup>3</sup>		-\$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 <sup>4</sup>		-\$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

<sup>1</sup> 409 - Includes revenue from Act Section 201 of TIPRA of 2005.  
<sup>2</sup> 410 - Includes revenue from Act Section 202 of TIPRA of 2005.  
<sup>3</sup> 412 - Includes revenue from Act Section 204 of TIPRA of 2005.  
<sup>4</sup> 425 - Includes revenue from Act Section 209 of TIPRA of 2005

## 2007 CONFORMITY REVENUE TABLES

Table 1 - <b>Small Business and Work Opportunity Tax Act of 2007 (PL 110-28)</b> 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
8247 *	Penalty for filing erroneous refund claims	\$1,300,000	\$3,200,000	\$7,000,000	\$9,400,000

Table 3 - <b>Virginia Tech Victims and Family Assistance Act (HR 4118, PL 110-141)</b> 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 - <b>Mortgage Forgiveness Debt Relief Act of 2007 (HR 3648, PL 110-142)</b> 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

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
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	\$2,600,000	\$10,300,000	\$14,200,000	\$17,650,000
2007 Grand Totals	\$2,600,000	\$11,093,000	\$14,888,000	\$19,408,000

## 2008 CONFORMITY REVENUE TABLE

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

<b>Table 3 - Conformity Revenue Estimates for HEARTA of 2008 (PL 110-245)</b>					
Assumed Enactment After June 30, 2009					
<b>Act Section</b>	<b>Provisions</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
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
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

<b>Table 4 - Conformity Revenue Estimates for HERA of 2008 (PL 110-289)</b>					
Assumed Enactment After June 30, 2009					
<b>Act Section</b>	<b>Provisions</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
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

Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
<i>EESA Division A, Title III - Tax Provisions</i>					
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		-\$9,200,000	-\$8,500,000	-\$6,500,000
<i>EESA Division B, Title I, Subtitle A - Energy Production Incentives</i>					
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>					
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>					
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>					
306	Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations		-\$800,000	No Impact	No Impact

Table 6 - Conformity Revenue Estimates for EESA of 2008 (PL 110-343) Assumed Enactment After June 30, 2009					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
307	Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property		-\$1,800,000	-\$150,000	-\$150,000
<i>EESA Division C, Title V, Subtitle A – General Provisions</i>					
506*	Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer		-\$100,000	-\$200,000	-\$200,000
<i>EESA Division C, Title VII, Subtitle A - Heartland and Hurricane Ike Disaster Relief</i>					
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					
Act Section	Provisions	2008-09	2009-10	2010-11	2011-12
<b>Title I, Subtitle B, Other Provisions</b>					
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

<b>2008 Totals</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
2008 Tax Revenue Totals		-\$14,023,000	-\$7,864,000	-\$5,136,000
2008 Penalty and Interest Totals		\$3,400,000	\$3,250,000	\$3,650,000
2008 Grand Totals		-\$10,623,000	-\$4,614,000	-\$1,486,000

<b>2005, 2006, 2007, and 2008 Combined Totals</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
2005 - 2008 Tax Revenue Totals		-\$9,528,000	-\$4,654,000	-\$633,000
2005 - 2008 Penalty and Interest Totals	\$2,600,000	\$14,100,000	\$17,650,000	\$21,500,000
<b>2005 - 2008 Grand Totals</b>	<b>\$2,600,000</b>	<b>\$4,572,000</b>	<b>\$12,996,000</b>	<b>\$20,867,000</b>

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