

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 8, 2012

AMENDED IN ASSEMBLY FEBRUARY 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1500**

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**Introduced by Assembly Member John A. Pérez**

**(Coauthors: Assembly Members Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bonilla, Bradford, Brownley, Buchanan, Butler, Charles Calderon, Campos, Carter, Cedillo, Chesbro, Davis, Dickinson, Eng, Feuer, Fong, Fuentes, Furutani, Galgiani, Gatto, Gordon, Hall, Hayashi, Roger Hernández, Hill, Huber, Hueso, Huffman, Lara, Bonnie Lowenthal, Ma, Mitchell, Monning, Pan, Perea, V. Manuel Pérez, Portantino, Skinner, Solorio, Swanson, Torres, Wieckowski, Williams, and Yamada)**

*(Coauthors: Senators Alquist, Corbett, De Leon, DeSaulnier, Evans, Hancock, Lowenthal, Pavley, Price, and Yee)*

January 10, 2012

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An act to add Article 21.7 (commencing with Section 70200) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, and to amend Sections 23101 and 25128 of, to amend and repeal Section 25128.5 of, to amend, repeal, and add Section 25136 of, and to add Sections 25128.7 and 25136.1 to, the Revenue and Taxation Code, relating to education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1500, as amended, John A. Pérez. Corporation taxes: apportionment: single sales factor: Middle Class Scholarship Fund.

The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. That law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to apportion its income in accordance with a single sales factor formula, except as provided, pursuant to an irrevocable annual election, as specified. That law also provides that sales of tangible personal property and sales of other than tangible personal property are in this state in accordance with specified criteria.

This bill, for taxable years beginning on or after January 1, 2012, would require a taxpayer, except as provided, to apportion its income in accordance with a single sale factor and would revise the rules that determine whether a taxpayer is doing business in this state, revise the provisions that determine whether sales other than tangible personal property occur in this state, including specific provisions for cable systems or networks.

This bill would require any aggregate increase in revenues derived from its provisions, as provided, to be deposited into the Middle Class Scholarship Fund, which the bill would establish, and, upon appropriation by the Legislature, allocate those revenues for the purpose of increasing the affordability of higher education.

This bill would become operative only if a specified measure is chaptered and establishes a middle-class scholarship program.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Article 21.7 (commencing with Section 70200)
- 2 is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the
- 3 Education Code, to read:

1 Article 21.7. Middle Class Scholarship Fund

2  
3 70200. (a) The Franchise Tax Board shall report to the  
4 Department of Finance, pursuant to a time schedule prescribed by  
5 the Director of Finance, the preliminary estimated increase in  
6 revenues for the 2012–13, 2013–14, 2014–15, and 2015–16 fiscal  
7 years, as the result of the amendment, addition, or repeal of  
8 Sections 23101, 25128, 25128.5, 25128.7, 25136, and 25136.1 of  
9 the Revenue and Taxation Code by the act adding this section.

10 (b) On and after January 1, 2016, the Franchise Tax Board shall  
11 report to the Department of Finance, pursuant to a time schedule  
12 prescribed by the Director of Finance, the final estimated increase  
13 in revenues for the 2012–13 fiscal year and each of the three  
14 subsequent fiscal years, as the result of the amendment, addition,  
15 or repeal of Sections 23101, 25128, 25128.5, 25128.7, 25136, and  
16 25136.1 of the Revenue and Taxation Code by the act adding this  
17 section. The final estimated increase in revenues for each fiscal  
18 year other than the 2012–13 fiscal year shall be computed by  
19 multiplying the final estimated increase in revenues for the  
20 2012–13 fiscal year by a ratio of total California personal income,  
21 as determined by the Department of Finance for that fiscal year,  
22 divided by the total California personal income for the 2012–13  
23 fiscal year, as revised by the quarter ending June 30, 2016.

24 (c) The Franchise Tax Board shall report to the Department of  
25 Finance for the 2016–17 fiscal year, and each fiscal year thereafter,  
26 pursuant to a time schedule prescribed by the Director of Finance,  
27 the estimated increase in revenues as the result of the amendment,  
28 addition, or repeal of Sections 23101, 25128, 25128.5, 25128.7,  
29 25136, and 25136.1 of the Revenue and Taxation Code by the act  
30 adding this section. The estimated increase for each fiscal year  
31 shall be computed by multiplying the final estimated increase in  
32 revenues for the 2012–13 fiscal year by a ratio of the estimated  
33 total California personal income for the subject fiscal year, as  
34 determined by the Department of Finance, on an annual basis,  
35 revised for the quarter ending June 30 in the year the estimate is  
36 made, divided by the total California personal income for the  
37 2012–13 fiscal year, as determined by the Department of Finance  
38 on an annual basis, as revised for the quarter ending June 30, 2016.

39 (d) The Director of Finance shall direct the Controller to make  
40 the following deposits in the Middle Class Scholarship Fund:

- 1 (1) On or before September 1, 2012, an amount equal to the  
2 preliminary estimated increase in revenues reported pursuant to  
3 subdivision (a) for the 2012–13 fiscal year.
- 4 (2) On or before September 1, 2013, an amount equal to the  
5 preliminary estimated increase in revenues reported pursuant to  
6 subdivision (a) for the 2013–14 fiscal year.
- 7 (3) On or before September 1, 2014, an amount equal to the  
8 preliminary estimated increase in revenues reported pursuant to  
9 subdivision (a) for the 2014–15 fiscal year.
- 10 (4) On or before September 1, 2015, an amount equal to the  
11 preliminary estimated increase in revenues reported pursuant to  
12 subdivision (a) for the 2015–16 fiscal year.
- 13 (5) On or before September 1, 2016, an amount equal to the  
14 estimated increase in revenues reported pursuant to subdivision  
15 (c) for the 2016–17 fiscal year, plus an amount equal to the  
16 difference between the preliminary estimated increase in revenues  
17 determined pursuant to subdivision (a) and the final estimated  
18 increase in revenues determined pursuant to subdivision (b) for  
19 the 2012–13 fiscal year.
- 20 (6) On or before September 1, 2017, an amount equal to the  
21 estimated increase in revenues reported pursuant to subdivision  
22 (c) for the 2017–18 fiscal year, plus an amount equal to the  
23 difference between the preliminary estimated increase in revenues  
24 determined pursuant to subdivision (a) and the final estimated  
25 increase in revenues determined pursuant to subdivision (b) for  
26 the 2013–14 fiscal year.
- 27 (7) On or before September 1, 2018, an amount equal to the  
28 estimated increase in revenues reported pursuant to subdivision  
29 (c) for the 2018–19 fiscal year, plus an amount equal to the  
30 difference between the preliminary estimated increase in revenues  
31 determined pursuant to subdivision (a) and the final estimated  
32 increase in revenues determined pursuant to subdivision (b) for  
33 the 2014–15 fiscal year.
- 34 (8) On or before September 1, 2019, an amount equal to the  
35 estimated increase in revenues reported pursuant to subdivision  
36 (c) for the 2019–20 fiscal year, plus an amount equal to the  
37 difference between the preliminary estimated increase in revenues  
38 determined pursuant to subdivision (a) and the final estimated  
39 increase in revenues determined pursuant to subdivision (b) for  
40 the 2015–16 fiscal year.

1 (9) On or before September 1, 2020, and each September 1  
2 thereafter, an amount equal to the estimated increase in revenues  
3 reported pursuant to subdivision (c) for the fiscal year in which  
4 each September 1 occurs.

5 70201. The Middle Class Scholarship Fund is hereby  
6 established in the State Treasury. Moneys in the fund shall be  
7 allocated, upon appropriation by the Legislature, for the purpose  
8 of increasing the affordability of higher education.

9 SEC. 2. Section 23101 of the Revenue and Taxation Code is  
10 amended to read:

11 23101. (a) “Doing business” means actively engaging in ~~any~~  
12 a transaction for the purpose of financial or pecuniary gain or  
13 profit.

14 (b) For taxable years beginning on or after January 1, 2011, a  
15 taxpayer is doing business in this state for a taxable year if any of  
16 the following conditions has been satisfied:

17 (1) The taxpayer is organized or commercially domiciled in this  
18 state.

19 (2) Sales, as defined in subdivision (e) or (f) of Section 25120  
20 as applicable for the taxable year, of the taxpayer in this state  
21 exceed the lesser of five hundred thousand dollars (\$500,000) or  
22 25 percent of the taxpayer’s total sales. For purposes of this  
23 paragraph, sales of the taxpayer include sales by an agent or  
24 independent contractor of the taxpayer. For purposes of this  
25 paragraph, sales in this state shall be determined using the rules  
26 for assigning sales under Sections 25135 and 25136, and the  
27 regulations thereunder, as modified by regulations under Section  
28 25137.

29 (3) The real property and tangible personal property of the  
30 taxpayer in this state exceed the lesser of fifty thousand dollars  
31 (\$50,000) or 25 percent of the taxpayer’s total real property and  
32 tangible personal property. The value of real and tangible personal  
33 property and the determination of whether property is in this state  
34 shall be determined using the rules contained in Sections 25129  
35 to 25131, inclusive, and the regulations thereunder, as modified  
36 by regulations under Section 25137.

37 (4) The amount paid in this state by the taxpayer for  
38 compensation, as defined in subdivision (c) of Section 25120,  
39 exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent  
40 of the total compensation paid by the taxpayer. Compensation in

1 this state shall be determined using the rules for assigning payroll  
 2 contained in Section 25133 and the regulations thereunder, as  
 3 modified by regulations under Section 25137.

4 (c) (1) The Franchise Tax Board shall annually revise the  
 5 amounts in paragraphs (2), (3), and (4) of subdivision (b) in  
 6 accordance with subdivision (h) of Section 17041.

7 (2) For purposes of the adjustment required by paragraph (1),  
 8 subdivision (h) of Section 17041 shall be applied by substituting  
 9 “2012” in lieu of “1988.”

10 (d) The sales, property, and payroll of the taxpayer include the  
 11 taxpayer’s pro rata or distributive share of a pass-thru entity. For  
 12 purposes of this subdivision, a “pass-thru entity” means a  
 13 partnership or an “S” corporation.

14 SEC. 3. Section 25128 of the Revenue and Taxation Code is  
 15 amended to read:

16 25128. (a) (1) Notwithstanding Section 38006, for taxable  
 17 years beginning before January 1, 2012, all business income shall  
 18 be apportioned to this state by multiplying the business income  
 19 by a fraction, the numerator of which is the property factor plus  
 20 the payroll factor plus twice the sales factor, and the denominator  
 21 of which is four, except as provided in subdivision (b) or (c).

22 (2) Notwithstanding Section 38006, for taxable years beginning  
 23 on or after January 1, 2012, all business income of an apportioning  
 24 trade or business shall be apportioned to this state by multiplying  
 25 the business income by the sales factor, unless the trade or business  
 26 meets the criteria of subdivision (b) or makes an election to  
 27 apportion its income in accordance with Section 25128.7.

28 (b) If an apportioning trade or business derives more than 50  
 29 percent of its “gross business receipts” from conducting one or  
 30 more qualified business activities, all business income of the  
 31 apportioning trade or business shall be apportioned to this state by  
 32 multiplying business income by a fraction, the numerator of which  
 33 is the property factor plus the payroll factor plus the sales factor,  
 34 and the denominator of which is three.

35 (c) For purposes of this section, a “qualified business activity”  
 36 means the following:

- 37 (1) An agricultural business activity.
- 38 (2) An extractive business activity.
- 39 (3) A savings and loan activity.
- 40 (4) A banking or financial business activity.

1 (d) For purposes of this section:

2 (1) “Gross business receipts” means gross receipts described in  
3 subdivision (e) or (f) of Section 25120 (other than gross receipts  
4 from sales or other transactions within an apportioning trade or  
5 business between members of a group of corporations whose  
6 income and apportionment factors are required to be included in  
7 a combined report under Section 25101, limited, if applicable, by  
8 Section 25110), whether or not the receipts are excluded from the  
9 sales factor by operation of Section 25137.

10 (2) “Agricultural business activity” means activities relating to  
11 any stock, dairy, poultry, fruit, furbearing animal, or truck farm,  
12 plantation, ranch, nursery, or range. “Agricultural business activity”  
13 also includes activities relating to cultivating the soil or raising or  
14 harvesting any agricultural or horticultural commodity, including,  
15 but not limited to, the raising, shearing, feeding, caring for, training,  
16 or management of animals on a farm as well as the handling,  
17 drying, packing, grading, or storing on a farm any agricultural or  
18 horticultural commodity in its unmanufactured state, but only if  
19 the owner, tenant, or operator of the farm regularly produces more  
20 than one-half of the commodity so treated.

21 (3) “Extractive business activity” means activities relating to  
22 the production, refining, or processing of oil, natural gas, or mineral  
23 ore.

24 (4) “Savings and loan activity” means any activities performed  
25 by savings and loan associations or savings banks which have been  
26 chartered by federal or state law.

27 (5) “Banking or financial business activity” means activities  
28 attributable to dealings in money or moneyed capital in substantial  
29 competition with the business of national banks.

30 (6) “Apportioning trade or business” means a distinct trade or  
31 business whose business income is required to be apportioned  
32 under Sections 25101 and 25120, limited, if applicable, by Section  
33 25110, using the same denominator for each of the applicable  
34 payroll, property, and sales factors.

35 (7) Paragraph (4) of subdivision (c) shall apply only if the  
36 Franchise Tax Board adopts the Proposed Multistate Tax  
37 Commission Formula for the Uniform Apportionment of Net  
38 Income from Financial Institutions, or its substantial equivalent,  
39 and shall become operative upon the same operative date as the  
40 adopted formula.

1 (8) In any case where the income and apportionment factors of  
2 two or more savings associations or corporations are required to  
3 be included in a combined report under Section 25101, limited, if  
4 applicable, by Section 25110, both of the following shall apply:

5 (A) The application of the more than 50 percent test of  
6 subdivision (b) shall be made with respect to the “gross business  
7 receipts” of the entire apportioning trade or business of the group.

8 (B) The entire business income of the group shall be apportioned  
9 in accordance with either subdivision (a) or (b), or Section 25128.7,  
10 as applicable.

11 SEC. 4. Section 25128.5 of the Revenue and Taxation Code  
12 is amended to read:

13 25128.5. (a) Notwithstanding Section 38006, for taxable years  
14 beginning on or after January 1, 2011, and before January 1, 2012,  
15 any apportioning trade or business, other than an apportioning  
16 trade or business described in subdivision (b) of Section 25128,  
17 may make an irrevocable annual election on an original timely  
18 filed return, in the manner and form prescribed by the Franchise  
19 Tax Board to apportion its income in accordance with this section,  
20 and not in accordance with Section 25128.

21 (b) Notwithstanding Section 38006, for taxable years beginning  
22 on or after January 1, 2011, and before January 1, 2012, all business  
23 income of an apportioning trade or business making an election  
24 described in subdivision (a) shall be apportioned to this state by  
25 multiplying the business income by the sales factor.

26 (c) The Franchise Tax Board is authorized to issue regulations  
27 necessary or appropriate regarding the making of an election under  
28 this section, including regulations that are consistent with rules  
29 prescribed for making an election under Section 25113.

30 (d) This section shall not apply to taxable years beginning on  
31 or after January 1, 2012, and as of December 1, 2012, is repealed.

32 SEC. 5. Section 25128.7 is added to the Revenue and Taxation  
33 Code, to read:

34 25128.7. (a) Notwithstanding Section 38006, for taxable years  
35 beginning on or after January 1, 2012, any apportioning trade or  
36 business, other than an apportioning trade or business described  
37 in subdivision (b) of Section 25128, may make an irrevocable  
38 annual election on an original timely filed return, in the manner  
39 and form prescribed by the Franchise Tax Board, to apportion its  
40 income in accordance with this section, and not in accordance with



1 Section 25128, if the “tax,” as defined in Section 23036 before the  
2 application of any credits, using this section to apportion its  
3 business income, is not less than the “tax,” as defined in Section  
4 23036 before the application of any credits, using paragraph (2)  
5 of subdivision (a) of Section 25128 to apportion its business  
6 income.

7 (b) Notwithstanding Section 38006, for taxable years beginning  
8 on or after January 1, 2012, all business income of an apportioning  
9 trade or business making an election under subdivision (a) shall  
10 be apportioned to this state by multiplying the business income  
11 by a fraction, the numerator of which is the property factor plus  
12 the payroll factor plus twice the sales factor, and the denominator  
13 of which is four.

14 (c) The Franchise Tax Board is authorized to issue regulations  
15 necessary or appropriate regarding the making of an election under  
16 this section, including regulations that are consistent with rules  
17 prescribed for making an election under Section 25113.

18 SEC. 6. Section 25136 of the Revenue and Taxation Code is  
19 amended to read:

20 25136. (a) For taxable years beginning before January 1, 2011,  
21 and for taxable years beginning on or after January 1, 2011, and  
22 before January 1, 2012, for which Section 25128.5 is operative  
23 and an election under subdivision (a) of Section 25128.5 has not  
24 been made, sales, other than sales of tangible personal property,  
25 are in this state if:

26 (1) The income-producing activity is performed in this state; or

27 (2) The income-producing activity is performed both in and  
28 outside this state and a greater proportion of the income-producing  
29 activity is performed in this state than in any other state, based on  
30 costs of performance.

31 (3) This subdivision shall apply, and subdivision (b) shall not  
32 apply, for any taxable year beginning on or after January 1, 2011,  
33 and before January 1, 2012, for which Section 25128.5 is not  
34 operative for any taxpayer subject to the tax imposed under this  
35 part.

36 (b) For taxable years beginning on or after January 1, 2011, and  
37 before January 1, 2012:

38 (1) Sales from services are in this state to the extent the  
39 purchaser of the service received the benefit of the service in this  
40 state.

1 (2) Sales from intangible property are in this state to the extent  
2 the property is used in this state. In the case of marketable  
3 securities, sales are in this state if the customer is in this state.

4 (3) Sales from the sale, lease, rental, or licensing of real property  
5 are in this state if the real property is located in this state.

6 (4) Sales from the rental, lease, or licensing of tangible personal  
7 property are in this state if the property is located in this state.

8 (5) For taxable years beginning on or after January 1, 2011, and  
9 before January 1, 2012:

10 (A) If Section 25128.5 is operative, then this subdivision shall  
11 apply in lieu of subdivision (a) for any taxable year for which an  
12 election has been made under subdivision (a) of Section 25128.5.

13 (B) If Section 25128.5 is not operative, then this subdivision  
14 shall not apply and subdivision (a) shall apply for any taxpayer  
15 subject to the tax imposed under this part.

16 (C) Notwithstanding subparagraphs (A) or (B), this subdivision  
17 shall apply for purposes of paragraph (2) of subdivision (b) of  
18 Section 23101.

19 (c) The Franchise Tax Board may prescribe those regulations  
20 as necessary or appropriate to carry out the purposes of subdivision  
21 (b).

22 (d) This section shall not apply to taxable years beginning on  
23 or after January 1, 2012, and as of December 1, 2012, is repealed.

24 SEC. 7. Section 25136 is added to the Revenue and Taxation  
25 Code, to read:

26 25136. (a) Notwithstanding Section 38006, for taxable years  
27 beginning on or after January 1, 2012, sales, other than sales of  
28 tangible personal property, are in this state if:

29 (1) Sales from services are in this state to the extent the  
30 purchaser of the service received the benefit of the services in this  
31 state.

32 (2) Sales from intangible property are in this state to the extent  
33 the property is used in this state. In the case of marketable  
34 securities, sales are in this state if the customer is in this state.

35 (3) Sales from the sale, lease, rental, or licensing of real property  
36 are in this state if the real property is located in this state.

37 (4) Sales from the rental, lease, or licensing of tangible personal  
38 property are in this state if the property is located in this state.

39 (b) The Franchise Tax Board may prescribe regulations as  
40 necessary or appropriate to carry out the purposes of this section.

1 SEC. 8. Section 25136.1 is added to the Revenue and Taxation  
2 Code, to read:

3 25136.1. (a) For taxable years beginning on or after January  
4 1, 2012, a qualified taxpayer that apportions its business income  
5 under Section 25128 shall apply the following provisions:

6 (1) Notwithstanding Section 25137, qualified sales assigned to  
7 this state shall be equal to 50 percent of the amount of qualified  
8 sales that would be assigned to this state pursuant to Section 25136  
9 but for the application of this section. The remaining 50 percent  
10 shall not be assigned to this state.

11 (2) All other sales shall be assigned pursuant to Section 25135  
12 or 25136.

13 (b) For purposes of this section:

14 (1) “Cable system” and “network” shall have the same meaning  
15 as defined in Section 5830 of the Public Utilities Code, as in effect  
16 on the effective date of the act adding this section. “Network  
17 services” means video, cable, voice, or data services.

18 (2) “Gross business receipts” means gross receipts as defined  
19 in paragraph (2) of subdivision (f) of Section 25120 (other than  
20 gross receipts from sales or other transactions between or among  
21 members of a combined reporting group, limited, if applicable, by  
22 Section 25110).

23 (3) “Minimum investment requirement” means qualified  
24 expenditures of not less than two hundred fifty million dollars  
25 (\$250,000,000) by a combined reporting group during the calendar  
26 year that includes the beginning of the taxable year.

27 (4) “Qualified expenditures” means any combination of  
28 expenditures attributable to this state for tangible property, payroll,  
29 services, franchise fees, or any intangible property distribution or  
30 other rights, paid or incurred by or on behalf of a member of a  
31 combined reporting group.

32 (A) An expenditure for other than tangible property shall be  
33 attributable to this state if the member of the combined reporting  
34 group received the benefit of the purchase or expenditure in this  
35 state.

36 (B) A purchase of or expenditure for tangible property shall be  
37 attributable to this state if the property is placed in service in this  
38 state.

1 (C) Qualified expenditures shall include expenditures by a  
2 combined reporting group for property or services purchased, used,  
3 or rendered by independent contractors in this state.

4 (D) Qualified expenditures shall also include expenditures by  
5 a qualified partnership, but only to the extent of the member's  
6 interest in the partnership.

7 (5) "Qualified group" means a combined reporting group, as  
8 defined in paragraph (3) of subdivision (b) of Section 25106.5 of  
9 Title 18 of the California Code of Regulations, as in effect on the  
10 effective date of the act adding this section, that satisfies the  
11 following conditions:

12 (A) Has satisfied the minimum investment requirement for the  
13 taxable year.

14 (B) For the combined reporting group's taxable year beginning  
15 in the 2006 calendar year, the combined reporting group derived  
16 more than 50 percent of its United States network gross business  
17 receipts from the operation of one or more cable systems.

18 (C) For purposes of satisfying the requirements of subparagraph  
19 (B), the following rules shall apply:

20 (i) If a member of the combined reporting group for the taxable  
21 year was not a member of the same combined reporting group for  
22 the taxable year beginning in the 2006 calendar year, the gross  
23 business receipts of that nonincluded member shall be included in  
24 determining the combined reporting group's gross business receipts  
25 for its taxable year beginning in the 2006 calendar year as if the  
26 nonincluded member were a member of the combined reporting  
27 group for the taxable year beginning in the 2006 calendar year.

28 (ii) The gross business receipts shall include the gross business  
29 receipts of a qualified partnership, but only to the extent of a  
30 member's interest in the partnership.

31 (6) "Qualified partnership" means a partnership if the  
32 partnership's income and apportionment factors are included in  
33 the income and apportionment factors of a member of the combined  
34 reporting group, but only to the extent of the member's interest in  
35 the partnership.

36 (7) "Qualified sales" means gross business receipts from the  
37 provision of any network services, other than gross business  
38 receipts from the sale or rental of customer premises equipment.  
39 "Qualified sales" shall include qualified sales by a qualified

1 partnership, but only to the extent of a member’s interest in the  
2 partnership.

3 (8) “Qualified taxpayer” means a member, as defined in  
4 paragraph (10) of subdivision (b) of Section 25106.5 of Title 18  
5 of the California Code of Regulations, as in effect on the effective  
6 date of the act adding this section, of a combined reporting group  
7 that is also a qualified group.

8 (c) The requirements in this section with respect to qualified  
9 sales by a qualified partnership are intended to be consistent with  
10 the rules for partnerships under paragraph (3) of subdivision (f)  
11 of Section 25137-1 of Title 18 of the California Code of  
12 Regulations.

13 SEC. 9. This act shall become operative only if Assembly Bill  
14 1501 of the 2011–12 Regular Session is chaptered and establishes  
15 a middle-class scholarship program.

16 SEC. 10. This act is an urgency statute necessary for the  
17 immediate preservation of the public peace, health, or safety within  
18 the meaning of Article IV of the Constitution and shall go into  
19 immediate effect. The facts constituting the necessity are:

20 In order to provide urgently needed financial aid to California  
21 public postsecondary students in time for the beginning of the  
22 2012–13 academic year, it is necessary for this act to take effect  
23 immediately.