

FACT SHEET

The Farmworker Housing Assistance Program

New Tax Incentives for Farmworker Housing—SB 38 (Lockyer)

The Farmworker Housing Assistance Program created by SB 38 (Lockyer) (Chapter 954, Statutes of 1996) provides two new tax incentives for development and rehabilitation of farmworker housing. Patterned after a successful Oregon program, the law creates a tax credit for commercial lending institutions that provide below market rate loans for farmworker housing and a tax credit for developers who build or rehabilitate farmworker housing. The lender credit is equal to 50% of the difference between a market rate of interest and the actual interest earned on a below market rate loan to finance farmworker housing. The developer credit is equal to 50% of the cost incurred to complete a farmworker housing development. Legislation to create these farmworker tax credits was originally carried by Assemblymember Cruz Bustmante (D-Fresno) in AB 2664 and AB 1741, but those provisions were incorporated into SB 38.

HOW THE PROGRAM WORKS

Eligibility: SB 38 authorizes the California Tax Credit Allocation Committee (TCAC) to allocate a total of \$500,000 each year for lender and developer tax credits for farmworker housing. Any unallocated credits may be carried over to subsequent years. The credits are limited to housing for farmworkers and their households, as defined in subdivision (b) of Section 1140.4 of the Labor Code and Section 7602 of Title 25 of the California Code of Regulations. The credits can be used for development or rehabilitation of both seasonal and year-round farmworker housing. The housing need not be limited to farmworkers employed by the property owner. The housing may be utilized for up to 60 days by nonfarmworkers in the event of natural disaster. Before claiming the credit, the taxpayer must provide TCAC with a copy of a current Employee Housing Act permit to operate issued by the State Department of Housing. Where the housing is designed and operated as a dormitory, the owner and operator may restrict occupancy by sex. In awarding credits, TCAC must give preference to proposed farmworker housing that is designed and operated for families. The law provides that farmworker housing assisted by these tax credits is not low-rent housing as defined by Article 34 of the State Constitution. The law deems all housing assisted by these tax credits to be subject to the Employee Housing Act, regardless of the number of dwelling units or whether the owner is otherwise exempt from that Act.

Regulatory Agreement: The owner of the farmworker housing must enter into a regulatory agreement with TCAC to ensure compliance with the law. The agreement must include (a) the location, number of units and rents; (b) a requirement for an annual report by the owner covering occupancy, income, and maintenance information; (c) provision for state approval of any transfer of the housing; (d) a requirement that the regulatory agreement be recorded; (e) a provision permitting TCAC, the city or county or tenants to enforce the terms of the agreement; and (f) provisions defining how af-

fordable rents will be established and maintained. The agreement can be subordinated, when required, to a lien of any lender to the project.

Eligible Costs: The expenditures upon which the amount of the farmworker housing tax credit can be based are limited to those costs necessary to bring the housing into compliance with the Employee Housing Act. Eligible costs also include general improvement costs such as improvements to ensure compliance with handicap access laws, building and permit fees, and costs related to reducing utility expenses. Eligible costs include costs related to reconstruction, but not costs related to acquisition or refinancing of property or structures. Credits can be taken beginning the first taxable year during which the construction or rehabilitation of the housing is completed and the units are occupied.

Application Review and Credit Allocation Process: In reviewing applications, TCAC will require evidence that: (1) the project's proposed financing is sufficient to complete the project; (2) the proposed operating budget is adequate; (3) the recipient or owner has sufficient expertise and financial capacity to ensure project completion and operation; (4) the project has enforceable financing commitments for at least 50 percent of the total estimated financing of the project; and (5) development fees and soft costs do not exceed a percentage of the eligible basis to be determined by TCAC. TCAC may charge a fee to a tax credit applicant to defray its costs in administering the program. TCAC may also adopt regulations for administration of the program. Credits will be allocated through a minimum of one competitive funding round per year. Following approval of the application, TCAC will issue a certificate to the taxpayer that states the total amount of the allocated tax credit to which the taxpayer is entitled each year. The taxpayer must: (1) apply to the committee for credit certification prior to the payment or incurrence of costs; and (2) retain a copy of the certification and make it available to the Franchise Tax Board upon request. TCAC will notify the Franchise Tax Board of the names and total amount of credit certified to each taxpayer. The Franchise Tax Board may recapture all of the tax credit plus interest if the credits are secured by fraud or misrepresentation.

SPECIFIC PROVISIONS APPLICABLE ONLY TO THE DEVELOPER CREDIT

SB 38 creates a developer credit equal to 50 percent of all eligible costs paid or incurred after January 1, 1997 to construct or rehabilitate farmworker housing. The construction or rehabilitation must have commenced on or after January 1, 1997. No credit is allowed unless the taxpayer first obtains a certification from TCAC that the costs are eligible. The taxpayer must obtain, for approval by TCAC, a construction cost audit and certification of qualified expenditures from a qualified accountant. If the credit exceeds the taxpayer's tax liability, the excess may be carried over to succeeding years until the credit has been exhausted. The owner must agree to maintain the housing in compliance with the law for a period of 30 years. The owner can cease use of the housing prior to 30 years if there is no longer a need for farmworker housing or it is economically infeasible to operate the housing, provided the owner repays a portion of the credit that reflects the balance of years the housing is not used for farmworker housing. The Franchise Tax Board may recapture all of the tax credit plus interest if the credits were secured by fraud or misrepresentation and may recapture a

portion of the credit, without interest, for any period the housing is not used in compliance with the law. If the farmworker housing is damaged or destroyed before the end of 30 years, the owner may continue to claim the credit if he/she commences reasonable action to repair or replace the farmworker housing. The housing may be vacant or occupied, and need not be licensed pursuant to the Employee Housing Act at the time of construction or rehabilitation. A taxpayer cannot take a charitable deduction for the same costs for which the taxpayer claims a developer tax credit.

SPECIFIC PROVISIONS APPLICABLE ONLY TO THE LENDER CREDIT

SB 38 creates a lender credit which permits a bank or financial corporation to claim a tax credit equal to 50 percent of the difference between a market rate of interest and the actual interest earned on a below market rate loan to finance farmworker housing. Market rate of interest is defined as the amount of interest income which could have been collected by the bank or financial corporation had the loan rate been one point above prime, or any other index used by the lender. The credit does not apply to loans with a term of less than three years or to loans funded prior to January 1, 1997. The credit applies only to interest income from the loan and not to loan fees or other charges collected by the bank. The credit is taken in equal installments over a period equal to the lesser of 10 years or the term of the loan. In the case where the credit exceeds the tax liability for any income year, the excess may not be carried over to reduce the tax in any succeeding year. There is no provision for the lender to be held responsible and to lose tax credits if the owner fails to maintain the housing for 30 years. The Franchise Tax Board may recapture tax credits plus interest from the bank only if the credits were secured by fraud or misrepresentation. If the bank sells the loan to another financial corporation, the balance of the credit, if any, can be transferred to the assignee or transferee of the loan, subject to the same terms set forth in the law. A bank or financial corporation may sell or transfer the loan to another entity and retain the right to claim the credit if the bank or financial corporation also retains responsibility for servicing the loan.

For Additional Information:

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Natalie Gubb, Gubb and Barshay, One Bush Street, Ste 380, San Francisco, CA 94104, 415-781-6600 ext 203

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**FACT
SHEET**

Farmworker Housing Tax Incentives

AB 1761 (Bustamante)

Summary: AB 1761 (Bustamante), provides tax incentives for development and rehabilitation of farmworker housing. Patterned after a successful Oregon tax credit program, the tax credits would support the development or rehabilitation of both seasonal and year-round farmworker housing. This bill passed two Assembly policy committees unanimously.

Two Tax Credits:

Lender Credit: The bill creates a tax credit for commercial lending institutions that provide below market rate loans for farmworker housing developments. The credit would be equal to 50% of the difference between a market rate of interest and the actual interest earned on a below market rate loan to finance farmworker housing.

Developer Credit: The bill creates a tax credit for developers who build or rehabilitate farmworker housing. The credit would be equal to 50% of the cost incurred to complete a farmworker housing development.

Cost Limits: The cost of the credits would be capped at \$5 million per year. The lender tax credit would be capped at \$2,500,000 per year; and the developer tax credit would be capped at total of \$2,500,000 each per year for individuals and for corporations. The tax credits would be allocated by the California Tax Credit Allocation Committee. Each of the tax credits would sunset in 2000.

Broad Support: AB 1761 is supported by the California Coalition for Rural Housing, California Farm Bureau Federation, Agricultural Council of California, California Building Industry Association, California Labor Federation, Teamsters, Electrical Workers, Pipe Trades Council and State Treasurer Matt Fong. Last year, AB 397 became the vehicle for a conference committee tax package and was vetoed for reasons unrelated to the farmworker tax credit.

Changes From AB 397: AB 1761 is very similar to AB 397, except that it transfers administration of the tax credits from the State Department of Housing to the Tax Credit Allocation Committee, deletes the donor credit, caps the credits at \$5 million, and streamlines and simplifies the allocation and monitoring process.

PROPOSED CONFERENCE REPORT NO. 1
AUGUST 28, 1996

AMENDED IN ASSEMBLY AUGUST 29, 1995

AMENDED IN ASSEMBLY JULY 18, 1995

AMENDED IN ASSEMBLY JUNE 30, 1995

AMENDED IN SENATE JUNE 14, 1995

AMENDED IN SENATE APRIL 6, 1995

AMENDED IN SENATE MARCH 29, 1995

SENATE BILL

No. 38

Introduced by Senator Lockyer and Assembly Member
Pringle

*(Principal coauthors: Senator Hurtt, Assembly Member
Katz, Senator Boatwright, and Assembly Member Takasugi)*
~~*(Coauthor: Senator Thompson)*~~

December 15, 1994

An act to add Section 17008.7 to, and to add Chapter 3.7
(commencing with Section 50199.50) to Part 1 of Division 31
of, the Health and Safety Code, to amend Sections 6358, 6366,
6377, 17052.12, 17053.8, 17053.49, 17062, 17072, 17076, 17144,
17250, 17271, 17276, 17507, 19144, 19147, 19148, 19191, 19192,
23221, 23609, 23622, 23649, 24307, 24344, 24358, 24411, 24416,
24424, and 24443 of, to amend, repeal, and add Sections 17151,
18042, and 24611 of, to add Sections 6244.5, 17052.8, 17053.12,
17053.14, 17053.42, 17053.73, 17077.5, 17084, 17134.5, 17138.5,
17141.5, 17150, 17201.5, 17210, 17213, 17218, 17255, 17267,

17279.5, 17330, 17570, 17859, 17860, 18044, 23604, 23608, 23608.2, 23608.3, 23622.5, 23642, 23701z, 24343.3, 24344.7, 24472, 24710, 24903, and 24905.5 to, and to add and repeal Sections 17052.10 and 23610 of, the Revenue and Taxation Code, and to amend Section 1088.5 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 38, as amended, Lockyer. ~~Personal income and bank and corporation taxes~~ Taxation.

(1) Existing law authorizes the California Tax Credit Allocation Committee to administer the low-income housing tax credit program.

This bill would enact the Farmworker Housing Assistance Program and would express findings and declarations of the Legislature with respect to the supply of affordable housing for transient and resident farmworkers.

Under the bill, the recipient of a tax credit pursuant to the program or the owner of the assisted farmworker housing would be required to enter into an agreement required by the committee to further the purposes of the program, wherein the owner would agree, among other things, that the farmworker housing units assisted with the farmworker housing tax credits would be utilized, maintained, and operated pursuant to these provisions for the compliance term specified by the applicable farmworker housing tax credit statute. The bill also would restrict the availability, occupancy, and use of the assisted farmworker housing, as specified. By requiring that the agreement be recorded in the official records of the county, this bill would impose a state-mandated local program.

The bill also would require the committee to allocate farmworker housing credits on a regular basis in each calendar year during which applications may be filed and considered. The committee would be required to establish application procedures, as specified. The bill also would authorize the committee to charge a fee of tax credit applicants as a condition of submitting an application, or

receiving an allocation or reservation of tax credits, to defray the committee's costs in administering the program.

(2) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property and provides various exemptions from the taxes imposed by that law. That law provides an exemption from those taxes for the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of property, and introduced into the process, as specified. That law also provides that if a purchaser who gives a resale certificate or purchases property for the purpose of reselling it makes any storage or use of the property, except as provided, the storage and use is taxable, and, with respect to specified property for which the use is limited to leasing, the purchaser is allowed to pay the use tax measured by the fair rental value, as defined.

This bill would provide under that law that a lessor of property that is the subject of that exemption, who is a manufacturer of that property, and who leases that property in a specified form, may, in lieu of reporting use tax measured by the rentals payable, elect to pay tax measured by his or her cost price, as defined, of that property if the election is made, as provided.

(3) The Sales and Use Tax Law also provides an exemption for drugs or medicines administered to animal life as an additive to feed or drinking water, the primary purpose of which is the prevention and control of disease of food animals, or of nonfood animals which are to be sold in the regular course of business.

This bill would additionally provide an exemption from those taxes for drugs or medicines, the primary purpose of which is the prevention or control of disease, that are administered to animal life of a kind the products of which ordinarily constitute food for human consumption.

(4) The Sales and Use Tax Law also provides an exemption for aircraft used as a common carrier, as specified, or sold to

This bill would, for income years beginning on or after January 1, 1997, modify those provisions to require the offset amount otherwise computed to be multiplied by a specified percentage.

(29) Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

(30) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(31) This bill would take effect immediately as a tax levy, however its provisions would become operative as specified.

The Personal Income Tax Law, by reference to specified federal statutes, conforms to various provisions of federal income tax law. Those provisions allow a deduction for the cost of certain tangible property that would otherwise be required to be capitalized and depreciated. Those provisions provide that the aggregate amount that may be deducted is \$10,000, although the federal provisions were subsequently amended to provide that the amount that may be deducted is \$17,500.

This bill would declare the intent of the Legislature to conform those provisions in the Personal Income Tax Law to the provisions in federal law for taxable years beginning on or after January 1, 1995, by revising the aggregate amount that may be deducted under the state provisions to \$17,500 with respect to property purchased on or after July 1, 1995.

The Personal Income Tax Law and the Bank and Corporation Tax Law allow to qualified taxpayers, as defined, a credit against taxes imposed by those laws in an amount equal to 6% of the amount paid or incurred during the taxable or income year for qualified property, as defined, that is placed in service in this state. Those laws provide that qualified property includes tangible personal property for use by a qualified taxpayer, as defined, primarily for the manufacturing, processing, refining, fabricating, or recycling of property, and introduced into the process, as specified.

This bill would declare the intent of the Legislature to extend provisions of the Manufacturer's Investment Credit, relating to special purpose buildings, to include manufacturers of semiconductor equipment.

Vote: majority. Appropriation: no. Fiscal committee: no yes. State-mandated local program: no yes.

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

1 **SECTION 1.** It is the intent of the Legislature to
2 **SECTION 1.** Section 17008.7 is added to the Health
3 and Safety Code, to read:
4 17008.7. All housing assisted pursuant to Chapter 3.7
5 (commencing with Section 50199.50) of Part 1 of Division
6 31 shall be deemed employee housing, without regard to
7 the number of dwelling accommodations or spaces or
8 whether the owner is an entity exempted pursuant to
9 Section 17024, and shall be subject to all requirements of
10 this chapter.

11 **SEC. 2.** Chapter 3.7 (commencing with Section
12 50199.50) is added to Part 1 of Division 31 of the Health
13 and Safety Code, to read:

14 **CHAPTER 3.7. FARMWORKER HOUSING ASSISTANCE**
15 **PROGRAM**

16
17 50199.50. For the purposes of this chapter:
18 (a) "Agricultural worker" or "farmworker" shall have
19 the same meaning as specified in subdivision (b) of
20 Section 1140.4 of the Labor Code.
21

1 (b) "Compliance period" means, with respect to any
 2 farmworker housing, the period of 30 consecutive taxable
 3 or income years, beginning with the taxable or income
 4 year in which the credit is allowable.

5 (c) "Employee Housing Act" means Part 1
 6 (commencing with Section 17000) of Division 13.

7 (d) "Farmworker housing" means housing subject to
 8 the Employee Housing Act, and, for the purposes of this
 9 chapter, it shall also include projects with less than five
 10 dwelling spaces or units in nonrural areas.

11 (e) "Farmworker housing tax credits" means the tax
 12 credits authorized by Sections 17053.14, 23608.2, and
 13 23608.3 of the Revenue and Taxation Code.

14 (f) "Household" has the same meaning as defined in
 15 Section 7602 of Title 25 of the California Code of
 16 Regulations.

17 (g) "Committee" means the California Tax Credit
 18 Allocation Committee as defined in Section 50199.7.

19 50199.51. The committee shall perform those duties
 20 delegated to it pursuant to this chapter and the
 21 responsibilities related to receipt by taxpayers of
 22 farmworker housing tax credits.

23 50199.52. All housing assisted pursuant to this chapter
 24 shall comply with the following requirements:

25 (a) Before claiming any farmworker housing tax
 26 credits, the taxpayer shall provide the committee with a
 27 copy of a current Employee Housing Act permit to
 28 operate.

29 (b) (1) The recipient of a tax credit pursuant to
 30 Section 17053.14, 23608.2, or 23608.3 of the Revenue and
 31 Taxation Code, or the owner of the farmworker housing
 32 assisted pursuant to Section 17053.14 or 23608.2 of the
 33 Revenue and Taxation Code, shall enter into those
 34 agreements required by the committee to further the
 35 purposes of this chapter and the applicable farmworker
 36 housing tax credit sections.

37 (2) The owner shall agree that the farmworker
 38 housing units assisted with the farmworker housing tax
 39 credits shall be utilized, maintained, and operated
 40 pursuant to this chapter for the compliance term

1 specified by the applicable farmworker housing tax credit
 2 statute.

3 (c) (1) The farmworker housing assisted pursuant to
 4 this chapter shall be available to, and occupied by, only
 5 farmworkers and their households. However, in the
 6 event of a natural disaster or other critical occurrence, as
 7 determined by the committee, the housing may be
 8 utilized at the discretion of the owner for households
 9 needing shelter for up to 60 days if there are no
 10 farmworkers who have submitted an application to
 11 reside, or to continue to reside, in the housing. The
 12 occupants of the housing need not be limited to
 13 farmworkers employed by the property owner.

14 (2) In addition, where the housing is designed and
 15 operated as a dormitory, the owner and operator may
 16 restrict occupancy by sex. However, in awarding credits
 17 pursuant to this chapter, the committee shall give
 18 preference to proposed farmworker housing that is
 19 designed and operated for families rather than for single
 20 sex dormitories.

21 (d) The expenditures upon which the amount of the
 22 farmworker housing tax credit is based shall be costs paid
 23 or incurred only for construction or repairs necessary to
 24 bring the housing into compliance with the Employee
 25 Housing Act and general improvement costs necessary
 26 and directly related thereto, including, but not limited to,
 27 improvements to ensure compliance with laws governing
 28 access for persons with handicaps, building and permit
 29 fees, and costs related to reducing utility expenses,
 30 including additional insulation, solar water heating, or
 31 similar improvements.

32 50199.53. The committee shall enter into an
 33 agreement with the owner of the farmworker housing to
 34 ensure compliance with the terms and conditions of the
 35 program. The agreement shall be subordinated, when
 36 required, to a lien or encumbrance of any bank or other
 37 institutional lender to the project. The provisions in the
 38 agreement shall include, but not be limited to, all of the
 39 following:

- 1 (a) Provisions establishing the location and number of
- 2 units or sleeping areas and their rents.
- 3 (b) The requirement of an annual report, including
- 4 occupancy, income, and maintenance information and, if
- 5 applicable, a copy of a current operating permit issued
- 6 pursuant to the Employee Housing Act.
- 7 (c) Provisions allowing and governing state approval
- 8 of the assignment, transfer, and assumption of the
- 9 housing, to ensure that the requirements of this program
- 10 are binding on successors.
- 11 (d) Provisions ensuring a term of use at least equal to
- 12 the compliance period.
- 13 (e) A requirement that the agreement be recorded in
- 14 the official records of the county in which the qualified
- 15 farmworker housing project is located.
- 16 (f) A provision stating that the agreement is
- 17 enforceable by the committee, and by the city or county
- 18 in which the farmworker housing is located, and by the
- 19 tenants as third-party beneficiaries.
- 20 (g) Provisions defining how the affordable rents will
- 21 be established and maintained.
- 22 50199.54. (a) In the event that the owner who
- 23 receives a credit pursuant to Section 17053.14 or 23608.2
- 24 of the Revenue and Taxation Code demonstrates, to the
- 25 committee's satisfaction, that there is no further need for
- 26 farmworker housing or that it is no longer economically
- 27 feasible to operate the farmworker housing, the owner
- 28 shall pay to the Franchise Tax Board a pro rata portion of
- 29 the credit previously allowed equal to the amount of any
- 30 tax credit previously allowed, multiplied by the ratio of
- 31 the number of years not elapsed in the compliance period
- 32 divided by 30.
- 33 (b) In the event that the farmworker housing is
- 34 damaged or destroyed by a casualty not caused by the
- 35 owner, the compliance period has not expired, and the
- 36 owner commences reasonable action to repair or replace
- 37 the farmworker housing, the taxpayer may continue to
- 38 claim the credit as if no destruction had taken place.
- 39 50199.55. (a) The committee shall allocate
- 40 farmworker housing credits on a regular basis in each

- 1 calendar year during which applications may be filed and
- 2 considered. The committee shall establish application
- 3 forms and instructions, application filing deadlines, and
- 4 the approximate date on which allocations shall be made.
- 5 As a condition of submitting an application, or as a
- 6 condition of receiving an allocation or reservation of tax
- 7 credits, the committee may charge a fee to a tax credit
- 8 applicant to defray the committee's costs in
- 9 administering this chapter. In review of applications, the
- 10 committee shall require the following criteria in order to
- 11 ensure compliance with all provisions of this chapter:
- 12 (1) The project's proposed financing, including tax
- 13 credit proceeds, shall be sufficient to complete the
- 14 project.
- 15 (2) The proposed operating budget shall be adequate
- 16 to operate the project for the compliance period.
- 17 (3) The recipient or owner shall have sufficient
- 18 expertise and the financial capacity to ensure project
- 19 completion and operation for the compliance period.
- 20 (4) The project shall have enforceable financing
- 21 commitments, either construction or permanent
- 22 financing, for at least 50 percent of the total estimated
- 23 financing of the project.
- 24 (5) Development fees and costs not included in
- 25 subdivision (d) of Section 50199.54 shall not exceed a
- 26 percentage of the eligible basis of the project prior to the
- 27 inclusion of the fees and costs in the basis, as determined
- 28 by the committee.
- 29 (b) Following approval, the committee shall issue a
- 30 certificate to the taxpayer that states the total amount of
- 31 the allocated tax credit to which the taxpayer is entitled
- 32 for each income or taxable year.
- 33 50199.56. The committee may adopt regulations in
- 34 accordance with Chapter 3.5 (commencing with Section
- 35 11340) of Part 1 of Division 3 of Title 2 of the Government
- 36 Code for the administration of this chapter.
- 37 50199.57. The committee shall be responsible for
- 38 enforcement of the agreement described in Section
- 39 50199.55, and shall report promptly to the Franchise Tax

1 Board any violations of this chapter or the farmworker
2 housing tax credit statutes.

3 50199.58. The Legislature finds and declares both of
4 the following:

5 (a) It is too speculative to determine the income levels
6 of the agricultural workers residing in farmworker
7 housing at any given time, and many agricultural workers
8 earn sufficient income, when they are fully employed, to
9 qualify as persons and families of moderate income.

10 (b) The farmworker housing assisted pursuant to this
11 chapter is not a low-rent housing project, as defined by
12 Section 1 of Article XXXIV of the California Constitution.

13 SEC. 3. Section 6244.5 is added to the Revenue and
14 Taxation Code, to read:

15 6244.5. (a) Notwithstanding any other provision of
16 law, a lessor of tangible personal property described in
17 Section 17053.49 or 23649, who is the manufacturer of that
18 property and who leases that property to a qualified
19 taxpayer, as defined in Sections 17053.49 and 23649, in a
20 form that is not substantially the same form as acquired,
21 may, in lieu of reporting use tax measured by the rentals
22 payable, elect to pay tax measured by his or her cost price
23 of that property if the election is made on or before the
24 due date of the return for the period in which the
25 property is first leased. The election shall be made by
26 reporting use tax measured by the cost price on the
27 return for that period. The election shall not be revoked
28 with respect to the property as to which it is made. The
29 lease of that property for which an election is made
30 pursuant to this section shall thereafter be excluded from
31 the terms "sale" and "purchase."

32 (b) "Cost price," as used in subdivision (a), means the
33 price at which similar property has been previously sold
34 or offered for sale. If that property has not been
35 previously sold or offered for sale, then the cost price shall
36 be deemed to be the aggregate of the following:

37 (1) Cost of materials.

38 (2) Direct labor.

39 (3) The pro rata share of all overhead costs
40 attributable to the manufacture of the property.

1 (4) Reasonable profit from the manufacturing
2 operations which, in the absence of evidence to the
3 contrary, shall be deemed to be 5 percent of the sum of
4 the factors listed in paragraphs (1) to (3), inclusive.

5 SEC. 3.5. Section 6358 of the Revenue and Taxation
6 Code is amended to read:

7 6358. There are exempted from the taxes imposed by
8 this part, the gross receipts from sales the sale in this state
9 of, and the storage, use, or other consumption in this state
10 of:

11 (a) Any form of animal life of a kind the products of
12 which ordinarily constitute food for human consumption.

13 (b) Feed for any form of animal life of a kind the
14 products of which ordinarily constitute food for human
15 consumption, or are to be sold in the regular course of
16 business.

17 (c) Seeds and annual plants the products of which
18 ordinarily constitute food for human consumption or are
19 to be sold in the regular course of business.

20 (d) Fertilizer to be applied to land the products of
21 which are to be used as food for human consumption or
22 sold in the regular course of business.

23 (e) On or after January 1, 1997, drugs or medicines, the
24 primary purpose of which is the prevention or control of
25 disease, that are administered to animal life of a kind the
26 products of which ordinarily constitute food for human
27 consumption.

28 SEC. 4. Section 6366 of the Revenue and Taxation
29 Code is amended to read:

30 6366. (a) There are exempted from the taxes
31 imposed by this part the gross receipts from the sale in this
32 state of, and the storage, use, or other consumption of
33 aircraft in this state of, the following:

34 (1) Aircraft sold to persons any person using such the
35 aircraft as a common carriers carrier of persons or
36 property under authority of the laws of this state, of the
37 United States, or of any foreign government, or sold to
38 any foreign government for use by such that government
39 outside of this state, or sold to persons any person who are
40 is not residents a resident of this state and who will not use

1 activities of the taxpayer within the enterprise zone (as
2 defined in Section 7073 of the Government Code)
3 determined as if that attributed income represented all
4 of the income of the taxpayer subject to tax under this
5 part. The

6 (2) The amount of that attributed income described in
7 paragraph (1) shall be determined in accordance with
8 the provisions of Article 2 Chapter 17 (commencing with
9 Section 25120) 25101) of Chapter 17 of Part 11, modified
10 for purposes of this section as follows:

11 (1)

12 (A) For taxable years beginning on or after January 1,
13 1991, and ending on or before December 31, 1996, income
14 shall be apportioned to the enterprise zone by
15 multiplying total business income from the business by a
16 fraction, the numerator of which is the property factor
17 plus the payroll factor, and the denominator of which is
18 two.

19 (2)

20 (B) "The enterprise zone" shall be substituted for
21 "this state."

22 (3) The portion of any credit remaining, if any, after
23 application of this subdivision, shall be carried over to
24 succeeding taxable years, as if it were an amount
25 exceeding the "net tax" for the taxable year, as provided
26 in subdivision (k).

27 SEC. 9. Section 17053.12 is added to the Revenue and
28 Taxation Code, to read:

29 17053.12. (a) In the case of a taxpayer who transports
30 any agricultural product donated in accordance with
31 Chapter 5 (commencing with Section 58501) of Part 1 of
32 Division 21 of the Food and Agricultural Code, for taxable
33 years beginning on or after January 1, 1996, there shall be
34 allowed as a credit against the "net tax" (as defined by
35 Section 17039), an amount equal to 50 percent of the
36 transportation costs paid or incurred by the taxpayer in
37 connection with the transportation of that donated
38 agricultural product.

39 (b) If any credit allowed by this section is claimed by
40 the taxpayer, any deduction otherwise allowed under this

1 part for that amount of the cost paid or incurred by the
2 taxpayer which is eligible for the credit that is claimed
3 shall be reduced by the amount of the credit allowed.

4 (c) Upon delivery of the donated agricultural product
5 by a taxpayer authorized to claim a credit pursuant to
6 subdivision (a), the nonprofit charitable organization
7 shall provide a certificate to the taxpayer who
8 transported the agricultural product. The certificate shall
9 contain a statement signed and dated by a person
10 authorized by that organization that the product is
11 donated under Chapter 5 (commencing with Section
12 58501) of Part 1 of Division 21 of the Food and
13 Agricultural Code. The certificate shall also contain the
14 following information: the type and quantity of product
15 donated, the distance transported, the name of the
16 transporter, the name of the taxpayer donor, and the
17 name and address of the donee. Upon the request of the
18 Franchise Tax Board, the taxpayer shall provide a copy of
19 the certification to the Franchise Tax Board.

20 (d) In the case where any credit allowed by this
21 section exceeds the "net tax," the excess may be carried
22 over to reduce the "net tax" in the following year, and
23 succeeding years if necessary, until the credit has been
24 exhausted.

25 SEC. 10. Section 17053.14 is added to the Revenue and
26 Taxation Code, to read:

27 17053.14. (a) (1) For taxable years beginning on or
28 after January 1, 1997, there shall be allowed as a credit
29 against the "net tax," as defined in Section 17039, an
30 amount equal to the lesser of 50 percent of the qualified
31 amount, as determined under subdivision (b), or the
32 amount allocated under paragraph (2) of subdivision (e).

33 (2) Notwithstanding paragraph (1), no credit shall be
34 allowed until the qualified year, as defined in paragraph
35 (3).

36 (3) For purposes of this section, the "qualified year" is
37 the first taxable year during which the construction or
38 rehabilitation of the qualified farmworker housing is
39 completed and there is occupancy of the qualified
40 farmworker housing by eligible farmworkers.

1 (b) (1) For purposes of this section, the "qualified
2 amount" shall be equal to the sum of all costs paid or
3 incurred to construct, in the case of new construction, or
4 rehabilitate, farmworker housing to meet the
5 requirements of the Employee Housing Act (Part 1
6 (commencing with Section 17000) of Division 13 of the
7 Health and Safety Code), and any general improvement
8 costs directly related thereto, including, but not limited
9 to, improvements to ensure compliance with laws
10 governing access for persons with disabilities and costs
11 related to reducing utility expenses.

12 (2) For purposes of paragraph (1), construction or
13 rehabilitation of the farmworker housing shall have
14 commenced on or after January 1, 1997.

15 (3) Notwithstanding any other provision of this part,
16 the qualified amount shall not include any costs paid or
17 incurred prior to January 1, 1997.

18 (c) Notwithstanding any other provision of this part,
19 no credit shall be allowed under this section unless the
20 taxpayer first obtains a certification from the committee
21 that the amounts described in subdivision (b) qualify for
22 the credit under this section and the total amount of the
23 credit allocated to the taxpayer pursuant to the
24 Farmworker Housing Assistance Program.

25 (d) The taxpayer shall do all of the following:

26 (1) Apply to the committee for credit certification
27 prior to the payment or incurrence of costs described in
28 paragraph (1) of subdivision (b).

29 (2) Retain a copy of the certification.

30 (3) Make the certification available to the Franchise
31 Tax Board upon request.

32 (e) The committee shall do all of the following:

33 (1) Provide forms and instructions for applications for
34 credit certification, as specified pursuant to the
35 Farmworker Housing Assistance Program.

36 (2) Accept applications and issue a certificate to the
37 taxpayer that includes a certification as to the qualified
38 expenditures described in subdivision (b) that qualify for
39 the credit and the total amount of the credit to which the
40 taxpayer is entitled for the taxable year. Credits shall be

1 allocated through a minimum of one competitive funding
2 round per year.

3 (3) Obtain the taxpayer's taxpayer identification
4 number, or each partner's taxpayer identification
5 number in the case of a partnership, for tax
6 administration purposes.

7 (4) Provide an annual listing to the Franchise Tax
8 Board, in the form and manner agreed upon by the
9 Franchise Tax Board and the committee, containing the
10 names, taxpayer identification numbers pursuant to
11 paragraph (3), qualified expenditures, and total amount
12 of credit certified to each taxpayer.

13 (f) For purposes of this section:

14 (1) "Compliance period" means, with respect to any
15 farmworker housing, the period of 30 consecutive taxable
16 years, beginning with the taxable year in which the credit
17 is allowable.

18 (2) "Construct or rehabilitate" includes
19 reconstruction, but does not include any costs related to
20 acquisition or refinancing of property or structures
21 thereon.

22 (3) "Employee Housing Act" means Part 1
23 (commencing with Section 17000) of Division 13 of the
24 Health and Safety Code.

25 (4) "Farmworker Housing Assistance Program"
26 means Chapter 3.7 (commencing with Section 50199.50)
27 of Part 1 of Division 31 of the Health and Safety Code.

28 (5) "Qualified farmworker housing" means housing
29 located within this state which satisfies the requirements
30 of the Farmworker Housing Assistance Program. The
31 housing may be vacant or occupied, and it need not be
32 licensed pursuant to the Employee Housing Act at the
33 time of the initiation of construction or rehabilitation.

34 (6) "Committee" means the California Tax Credit
35 Allocation Committee as defined in Section 50199.7 of the
36 Health and Safety Code.

37 (7) "Qualified accountant" means an accountant
38 licensed or certified in this state who is neither an
39 employee of the taxpayer nor related to the taxpayer,

1 *within the meaning of Section 267 of the Internal*
 2 *Revenue Code.*

3 (g) *No deduction or other credit shall be allowed*
 4 *under this part or Part 11 (commencing with Section*
 5 *23001) to the extent of any qualified amounts, as defined*
 6 *in subdivision (b), that are taken into account in*
 7 *computing the credit allowed under this section.*

8 (h) *The farmworker housing tax credit shall not be*
 9 *allowed unless the taxpayer:*

10 (1) *Constructs or rehabilitates the property subject to*
 11 *the covenants, conditions, and restrictions imposed by*
 12 *this section and pursuant to the Farmworker Housing*
 13 *Assistance Program, which shall include, but not*
 14 *necessarily be limited to, a requirement that the taxpayer*
 15 *obtain, for approval by the committee, a construction cost*
 16 *audit and certification of qualified expenditures from a*
 17 *qualified accountant.*

18 (2) *Subsequent to construction or rehabilitation of the*
 19 *farmworker housing, owns or operates the farmworker*
 20 *housing pursuant to the requirements of this section, or*
 21 *ensures the ownership and operation of the farmworker*
 22 *housing pursuant to the requirements of this section.*

23 (i) *The requirements of this section shall be set forth*
 24 *in a written agreement between the committee and the*
 25 *taxpayer. The agreement shall include, but not*
 26 *necessarily be limited to, the requirements set forth in the*
 27 *Farmworker Housing Assistance Program.*

28 (j) *In the case where the credit allowed by this section*
 29 *exceeds the "net tax," the excess may be carried over to*
 30 *reduce the "net tax" in the following year, and*
 31 *succeeding years if necessary, until the credit has been*
 32 *exhausted.*

33 (k) (1) *In the case of any disqualifying event, as*
 34 *defined in paragraph (2), there shall be added to the "net*
 35 *tax," as defined in Section 17039, for the taxable year in*
 36 *which the disqualifying event occurs, the recapture*
 37 *amount computed under paragraph (3) and the interest*
 38 *amount computed under paragraph (4).*

39 (2) *For purposes of this subdivision, "disqualifying*
 40 *event" shall mean:*

1 (A) *The committee determines that the certification*
 2 *provided under subdivision (e) was obtained by fraud or*
 3 *misrepresentation.*

4 (B) *The taxpayer fails to comply with the*
 5 *requirements of the Employee Housing Act, if applicable,*
 6 *the Farmworker Housing Assistance Program, or any*
 7 *other requirement imposed under this section.*

8 (3) *For purposes of this subdivision, "recapture*
 9 *amount" means:*

10 (A) *In the case of any disqualifying event described in*
 11 *subparagraph (A) of paragraph (2), the entire amount of*
 12 *any credit previously allowed under this section.*

13 (B) *In the case of any disqualifying event described in*
 14 *subparagraph (B) of paragraph (2), an amount*
 15 *determined by multiplying the entire amount of the*
 16 *credit previously allowed under this section by a fraction,*
 17 *the numerator of which is the number of years remaining*
 18 *in the compliance period and the denominator of which*
 19 *is 30.*

20 (4) *For purposes of this subdivision, "interest amount"*
 21 *means:*

22 (A) *In the case of any disqualifying event described in*
 23 *subparagraph (A) of paragraph (2), the amount of*
 24 *interest computed using the adjusted annual rate*
 25 *established in Section 19521 from the due date of the*
 26 *return for each taxable year in which the credit was*
 27 *claimed to the date of the payment of the additional tax*
 28 *resulting from the application of this subdivision.*

29 (B) *In the case of any disqualifying event described in*
 30 *subparagraph (B) of paragraph (2), zero.*

31 (l) *The annual amount of credit granted pursuant to*
 32 *this section and Sections 23608.2 and 23608.3 shall not*
 33 *exceed five hundred thousand dollars (\$500,000),*
 34 *provided that the aggregate amount of the credit granted*
 35 *pursuant to this section and Sections 23608.2 and 23608.3*
 36 *for the 1998 calendar year and thereafter may exceed five*
 37 *hundred thousand dollars (\$500,000) per calendar year by*
 38 *an amount equal to any unallocated credits under this*
 39 *section and Sections 23608.2 and 23608.3 for the preceding*
 40 *calendar year or years.*

1 (2), (3), or (4) of subsection (d) of Section 613A of the
2 Internal Revenue Code.

3 (b) Section 43(d) of the Internal Revenue Code shall
4 apply.

5 (c) In the case where the credit allowed by this section
6 exceeds the "tax," the excess may be carried over to
7 reduce the "tax" for the succeeding 15 years.

8 (d) In the case where property which qualifies as part
9 of the taxpayer's "qualified enhanced oil recovery costs"
10 also qualifies for a credit under any other section in this
11 part, the taxpayer shall make an election on its original
12 return as to which section applies to all costs allocable to
13 that item of qualified property. Any election made under
14 this section, and any specification contained in that
15 election, may not be revoked except with the consent of
16 the Franchise Tax Board.

17 (e) No deduction shall be allowed as otherwise
18 provided in this part for that portion of any costs paid or
19 incurred for the income year which is equal to the
20 amount of the credit allowed under this section
21 attributable to those costs.

22 (f) The basis of any property for which a credit is
23 allowed under this section shall be reduced by the
24 amount of the credit attributable to the property. The
25 basis adjustment shall be made for the income year for
26 which the credit is allowed.

27 (g) No credit may be claimed under this section with
28 respect to any amount for which any other credit has
29 been claimed under this part.

30 SEC. 34. Section 23608 is added to the Revenue and
31 Taxation Code, to read:

32 23608. (a) In the case of a taxpayer who transports
33 any agricultural product donated in accordance with
34 Chapter 5 (commencing with Section 58501) of Part 1 of
35 Division 21 of the Food and Agricultural Code, for income
36 years beginning on or after January 1, 1996, there shall be
37 allowed as a credit against the "tax" (as defined by
38 Section 23036), an amount equal to 50 percent of the
39 transportation costs paid or incurred by the taxpayer in

1 connection with the transportation of that donated
2 agricultural product.

3 (b) If two or more taxpayers share in the expenses
4 eligible for the credit provided by this section, each
5 taxpayer shall be eligible to receive the tax credit in
6 proportion to its respective share of the expenses paid or
7 incurred.

8 (c) If any credit allowed by this section is claimed by
9 the taxpayer, any deduction otherwise allowed under this
10 part for that amount of the cost paid or incurred by the
11 taxpayer which is eligible for the credit that is claimed
12 shall be reduced by the amount of the credit allowed.

13 (d) Upon delivery of the donated agricultural product
14 by a taxpayer authorized to claim a credit pursuant to
15 subdivision (a), the nonprofit charitable organization
16 shall provide a certificate to the taxpayer who
17 transported the agricultural product. The certificate shall
18 contain a statement signed and dated by a person
19 authorized by that organization that the product is
20 donated under Chapter 5 (commencing with Section
21 58501) of Part 1 of Division 21 of the Food and
22 Agricultural Code. The certificate shall also contain the
23 following information: the type and quantity of product
24 donated, the distance transported, the name of the
25 transporter, the name of the taxpayer donor, and the
26 name and address of the donee. Upon the request of the
27 Franchise Tax Board, the taxpayer shall provide a copy of
28 the certification to the Franchise Tax Board.

29 (e) In the case where any credit allowed by this section
30 exceeds the "tax," the excess may be carried over to
31 reduce the "tax" in the following year, and succeeding
32 years if necessary, until the credit is exhausted.

33 SEC. 35. Section 23608.2 is added to the Revenue and
34 Taxation Code, to read:

35 23608.2. (a) (1) For income years beginning on or
36 after January 1, 1997, there shall be allowed as a credit
37 against the "tax," as defined by Section 23036, an amount
38 equal to the lesser of 50 percent of the qualified amount,
39 as determined under subdivision (b), or the amount
40 allocated under paragraph (2) of subdivision (e).

1 (2) Notwithstanding paragraph (1), no credit shall be
2 allowed until the qualified year, as defined in paragraph
3 (3).

4 (3) For purposes of this section, the "qualified year" is
5 the first income year during which the construction or
6 rehabilitation of the qualified farmworker housing is
7 completed and there is occupancy of the qualified
8 farmworker housing by eligible farmworkers.

9 (b) (1) For purposes of this section, the "qualified
10 amount" shall be equal to the sum of all costs paid or
11 incurred to construct, in the case of new construction, or
12 rehabilitate, farmworker housing to meet the
13 requirements of the Employee Housing Act (Part 1
14 (commencing with Section 17000) of Division 13 of the
15 Health and Safety Code), and any general improvement
16 costs directly related thereto, including, but not limited
17 to, improvements to ensure compliance with laws
18 governing access for persons with disabilities and costs
19 related to reducing utility expenses.

20 (2) For purposes of paragraph (1), construction or
21 rehabilitation of the farmworker housing shall have
22 commenced on or after January 1, 1997.

23 (3) Notwithstanding any provision of this part, the
24 qualified amount shall not include any costs paid or
25 incurred prior to January 1, 1997.

26 (c) Notwithstanding any other provision of this part,
27 no credit shall be allowed under this section unless the
28 taxpayer first obtains a certification from the committee
29 that the amounts described in subdivision (b) qualify for
30 the credit under this section and the total amount of the
31 credit allocated to the taxpayer pursuant to the
32 Farmworker Housing Assistance Program.

33 (d) The taxpayer shall do all of the following:

34 (1) Apply to the committee for credit certification
35 prior to the payment or incurrence of costs described in
36 paragraph (1) of subdivision (b).

37 (2) Retain a copy of the certification.

38 (3) Make the certification available to the Franchise
39 Tax Board upon request.

40 (e) The committee shall do all of the following:

1 (1) Provide forms and instructions for applications for
2 credit certification, as specified pursuant to the
3 Farmworker Housing Assistance Program.

4 (2) Accept applications and issue a certificate to the
5 taxpayer that includes a certification as to the qualified
6 expenditures described in subdivision (b) that qualify for
7 the credit and the total amount of the credit to which the
8 taxpayer is entitled for the income year. Credits shall be
9 allocated through a minimum of one competitive funding
10 round per year.

11 (3) Obtain the taxpayer's taxpayer identification
12 number, or each shareholder's taxpayer identification
13 number in the case of an S corporation, for tax
14 administration purposes.

15 (4) Provide an annual listing to the Franchise Tax
16 Board, in the form and manner agreed upon by the
17 Franchise Tax Board and the committee, containing the
18 names, taxpayer identification numbers pursuant to
19 paragraph (3), qualified expenditures, and total amount
20 of credit certified to each taxpayer.

21 (f) For purposes of this section:

22 (1) "Compliance period" means, with respect to any
23 farmworker housing, the period of 30 consecutive income
24 years, beginning with the income year in which the credit
25 is allowable.

26 (2) "Construct or rehabilitate" includes
27 reconstruction, but does not include any costs related to
28 acquisition or refinancing of property or structures
29 thereon.

30 (3) "Employee Housing Act" means Part 1
31 (commencing with Section 17000) of Division 13 of the
32 Health and Safety Code.

33 (4) "Farmworker Housing Assistance Program"
34 means Chapter 3.7 (commencing with Section 50199.50)
35 of Part 1 of Division 31 of the Health and Safety Code.

36 (5) "Qualified farmworker housing" means housing
37 located within this state which satisfies the requirements
38 of the Farmworker Housing Assistance Program. The
39 housing may be vacant or occupied, and it need not be

1 licensed pursuant to the Employee Housing Act at the
2 time of the initiation of construction or rehabilitation.

3 (6) "Committee" means the California Tax Credit
4 Allocation Committee as defined in Section 50199.7 of the
5 Health and Safety Code.

6 (7) "Qualified accountant" means an accountant
7 licensed or certified in this state who is neither an
8 employee of the taxpayer, nor related to the taxpayer
9 within the meaning of Section 267 of the Internal
10 Revenue Code.

11 (g) No deduction or other credit shall be allowed
12 under this part or Part 10 (commencing with Section
13 17001) to the extent of any qualified amounts, as defined
14 in subdivision (b), that are taken into account in
15 computing the credit allowed under this section.

16 (h) The farmworker housing tax credit shall not be
17 allowed unless the taxpayer:

18 (1) Constructs or rehabilitates the property subject to
19 the covenants, conditions, and restrictions imposed by
20 this section and pursuant to the Farmworker Housing
21 Assistance Program, which shall include, but not
22 necessarily be limited to, a requirement that the taxpayer
23 obtain, for approval by the committee, a construction cost
24 audit and certification of qualified expenditures from a
25 qualified accountant.

26 (2) Subsequent to construction or rehabilitation of the
27 farmworker housing, owns or operates the farmworker
28 housing pursuant to the requirements of this section, or
29 ensures the ownership and operation of the farmworker
30 housing pursuant to the requirements of this section.

31 (i) The requirements of this section shall be set forth
32 in a written agreement between the committee and the
33 taxpayer. The agreement shall include, but not
34 necessarily be limited to, the requirements set forth in the
35 Farmworker Housing Assistance Program.

36 (j) In the case where the credit allowed by this section
37 exceeds the "tax," the excess may be carried over to
38 reduce the "tax" in the following year, and succeeding
39 years if necessary, until the credit has been exhausted.

1 (k) (1) In the case of any disqualifying event, as
2 defined in paragraph (2), there shall be added to the
3 "tax," as defined in Section 23036, for the income year in
4 which the disqualifying event occurs, the recapture
5 amount computed under paragraph (3) and the interest
6 amount computed under paragraph (4).

7 (2) For purposes of this subdivision, "disqualifying
8 event" shall mean:

9 (A) The committee determines that the certification
10 provided under subdivision (e) was obtained by fraud or
11 misrepresentation.

12 (B) The taxpayer fails to comply with the
13 requirements of the Employee Housing Act, if applicable,
14 the Farmworker Housing Assistance Program, or any
15 other requirement imposed under this section.

16 (3) For purposes of this subdivision, "recapture
17 amount" means:

18 (A) In the case of any disqualifying event described in
19 subparagraph (A) of paragraph (2), the entire amount of
20 any credit previously allowed under this section.

21 (B) In the case of any disqualifying event described in
22 subparagraph (B) of paragraph (2), an amount
23 determined by multiplying the entire amount of the
24 credit previously allowed under this section by a fraction,
25 the numerator of which is the number of years remaining
26 in the compliance period and the denominator of which
27 is 30.

28 (4) For purposes of this subdivision, "interest amount"
29 means:

30 (A) In the case of any disqualifying event described in
31 subparagraph (A) of paragraph (2), the amount of
32 interest computed using the adjusted annual rate
33 established in Section 19521 from the due date of the
34 return for each income year in which the credit was
35 claimed to the date of payment of the additional tax
36 resulting from the application of this subdivision.

37 (B) In the case of any disqualifying event described in
38 subparagraph (B) of paragraph (2), zero.

39 (l) The annual amount of credit granted pursuant to
40 this section and Sections 17053.14 and 23608.3 shall not

1 exceed five hundred thousand dollars (\$500,000),
 2 provided that the aggregate amount of the credit granted
 3 pursuant to this section and Sections 17053.14 and 23608.3
 4 for the calendar year 1998 and thereafter may exceed five
 5 hundred thousand dollars (\$500,000) per calendar year by
 6 an amount equal to any unallocated credits under this
 7 section and Sections 17053.14 and 23608.3 for the
 8 preceding calendar year or years.

9 SEC. 36. Section 23608.3 is added to the Revenue and
 10 Taxation Code, to read:

11 23608.3. (a) For income years beginning on or after
 12 January 1, 1997, there shall be allowed as a credit against
 13 the "tax," as defined in Section 23036, for a bank or
 14 financial corporation an amount equal to the qualified
 15 amount as determined in subdivision (b).

16 (b) (1) For purposes of this section, the "qualified
 17 amount" shall be equal to 50 percent of the difference
 18 between the amount of interest income which could have
 19 been collected by the bank or financial corporation had
 20 the loan rate been one point above prime, or any other
 21 index used by the lender, and the lesser amount of
 22 interest income actually due for the term of the loan by
 23 the bank or financial corporation on those portions of
 24 loans used to finance only qualified expenditures actually
 25 paid or incurred to rehabilitate or construct qualified
 26 farmworker housing.

27 (2) The credit allowed under this section shall be
 28 taken in equal installments over a period equal to the
 29 lesser of 10 years or the term of the loan beginning in the
 30 taxpayer's income year during which the qualified
 31 farmworker housing is completed and there is initial
 32 occupancy by eligible farmworkers. In the case where the
 33 credit allowed by this section exceeds the "tax" for any
 34 income year, the excess may not be carried over to reduce
 35 the "tax" in any succeeding year.

36 (3) The credit shall not apply to loans with a term of
 37 less than three years or to loans funded prior to January
 38 1, 1997. The credit shall apply only to interest income
 39 from the loan and shall not apply to any other loan fees

1 or other charges collected by the bank or financial
 2 corporation with respect to the loan.

3 (c) The taxpayer shall qualify for the credit by
 4 application to and certification by the committee that the
 5 expenses qualify for the credit under this section.

6 (d) The taxpayer shall do all of the following:

7 (1) Apply to the committee for credit certification
 8 prior to the funding of the loan.

9 (2) Retain a copy of the certification.

10 (3) Make the certification available to the Franchise
 11 Tax Board upon request.

12 (e) The committee shall do all of the following:

13 (1) Provide forms and instructions for applications for
 14 credit certification, as specified pursuant to the
 15 Farmworker Housing Assistance Program.

16 (2) Accept applications and issue a certificate to the
 17 taxpayer that includes the credit amount to which the
 18 taxpayer is entitled.

19 (3) Obtain the taxpayer's taxpayer identification
 20 number, and each shareholder's taxpayer identification
 21 number in the case of an S corporation, for tax
 22 administration purposes.

23 (4) Provide an annual listing to the Franchise Tax
 24 Board, and in a form and manner agreed upon by the
 25 Franchise Tax Board and the committee, containing the
 26 names, taxpayer identification numbers pursuant to
 27 paragraph (3), qualified amounts, and total amount of
 28 credit certified to each taxpayer.

29 (f) For the purposes of this section:

30 (1) "Construct or rehabilitate" includes
 31 reconstruction, but does not include any costs related to
 32 acquisition or refinancing of property or structures
 33 thereon.

34 (2) "Farmworker Housing Assistance Program"
 35 means Chapter 3.7 (commencing with Section 50199.50)
 36 of Part 1 of Division 31 of the Health and Safety Code.

37 (3) "Qualified expenditures" means those
 38 expenditures certified by the committee to meet the
 39 requirements of Sections 17053.14 and 23608.2.

1 (4) "Qualified farmworker housing" means housing
2 within the state that meets the requirements of the
3 Farmworker Housing Assistance Program.

4 (g) (1) In the event that the committee determines
5 that the certification provided under subdivision (e) was
6 obtained by the fraud or misrepresentation of the
7 taxpayer, there shall be added to the "tax," as defined in
8 Section 23036 for the income year in which the
9 disqualifying event occurs, the recapture amount
10 computed under paragraph (2) and the interest amount
11 computed under paragraph (3).

12 (2) For purposes of this subdivision, "recapture
13 amount" means the entire amount of any credit
14 previously allowed under this section.

15 (3) For purposes of this subdivision, "interest amount"
16 means the amount of interest computed using the
17 adjusted annual rate established in Section 19521 from the
18 due date of the return for the taxable year in which the
19 credit was claimed to the date of payment of the
20 additional tax resulting from the application of this
21 subdivision.

22 (h) (1) Except as provided in paragraph (2), if the
23 bank or financial corporation sells the loan to another
24 bank or financial corporation, the balance of the credit,
25 if any, shall be transferred to the assignee or transferee of
26 the loan, subject to the same conditions and limitations as
27 set forth in this section.

28 (2) A bank or financial corporation may assign, sell, or
29 otherwise transfer the loan to another person or entity
30 and retain the right to claim the credit granted under this
31 section if the bank or financial corporation also retains
32 responsibility for servicing the loan.

33 (i) The annual amount of credit granted pursuant to
34 this section and Sections 17053.14 and 23608.2 shall not
35 exceed five hundred thousand dollars (\$500,000),
36 provided that the aggregate amount of the credit granted
37 pursuant to this section and Sections 17053.14 and 23608.2
38 for the 1998 calendar year and thereafter may exceed five
39 hundred thousand dollars (\$500,000) per calendar year by
40 an amount equal to any unallocated credits from this

1 section and Sections 17053.14 and 23608.2 for the
2 preceding calendar year or years.

3 SEC. 37. Section 23609 of the Revenue and Taxation
4 Code is amended to read:

5 23609. For each income year beginning on or after
6 January 1, 1987, there shall be allowed as a credit against
7 the "tax" (as defined by Section 23036) an amount
8 determined in accordance with Section 41 of the Internal
9 Revenue Code, except as follows:

10 (a) ~~(1)~~ For each income year beginning before
11 January 1, 1997, both of the following modifications shall
12 apply:

13 (1) The reference to "20 percent" in Section 41 (a) (1)
14 of the Internal Revenue Code is modified to read "8
15 percent."

16 (2) The reference to "20 percent" in Section 41 (a) (2)
17 of the Internal Revenue Code is modified to read "12
18 percent."

19 (b) For each income year beginning on or after
20 January 1, 1997, both of the following modifications shall
21 apply:

22 (1) The reference to "20 percent" in Section 41 (a) (1)
23 of the Internal Revenue Code is modified to read "11
24 percent."

25 (2) The reference to "20 percent" in Section 41 (a) (2)
26 of the Internal Revenue Code is modified to read "24
27 percent."

28 (c) "Qualified research" and "basic research" shall
29 include only research conducted in California.

30 ~~(e)~~

31 (d) The provisions of Section 41(e)(7)(A) of the
32 Internal Revenue Code, shall be modified so that "basic
33 research," for purposes of this section, includes any basic
34 or applied research including scientific inquiry or original
35 investigation for the advancement of scientific or
36 engineering knowledge or the improved effectiveness of
37 commercial products, except that the term does not
38 include any of the following:

39 (1) Basic research conducted outside California.