

Assembly Bill No. 989

CHAPTER 701

An act to add Article 12 (commencing with Section 32425) to Chapter 3 of Part 19 of the Education Code, to add Section 17131.1 to the Revenue and Taxation Code, to add Section 2629.5 to the Unemployment Insurance Code, and to amend Section 11008.20 of the Welfare and Institutions Code, relating to holocaust reparations, and making an appropriation therefor.

[Approved by Governor September 19, 2002. Filed with Secretary of State September 19, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 989, Chan. Holocaust restitution payments.

Existing law establishes programs for education grants, priorities, and program enrollments, state disability insurance benefits, and public social services.

The Personal Income Tax Law provides various exclusions from gross income in determining tax liability.

Existing law excludes from the determination of state personal income taxes and eligibility for various public assistance program benefits certain compensation or settlements for unrecovered property of victims of the holocaust.

This bill would provide an exclusion of holocaust restitution payments, as defined, received by an eligible individual, or the individual's heirs or estate, and for any excludable interest, as defined, for purposes of determining eligibility for state education grants, priorities, and program enrollments, state disability insurance benefits, and public social services, to the extent permitted by federal law, and for purposes of determining personal income taxes.

Under existing law, moneys in the Disability Fund are continuously appropriated to the Employment Development Department for purposes of paying disability benefits.

Because this bill would expand eligibility for disability benefits, it would constitute an appropriation.

Under existing law, certain public social services programs, the State Supplementary Program for the aged, blind, and disabled and the CalWORKs program, are funded through a continuing appropriation, and, by excluding benefits from the determination of eligibility for benefits under those programs, this bill would increase the number of persons who would be eligible for those program benefits, resulting in



an increase in the level of funding under those programs, thus resulting in an appropriation.

Under existing law, counties are responsible for the administration of, and determination of eligibility for, those public social service programs. By increasing the number of persons who would be eligible for benefits under those programs, this bill would result in a state-mandated local program.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

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

SECTION 1. Article 12 (commencing with Section 32425) is added to Chapter 3 of Part 19 of the Education Code, to read:

Article 12. Excludable Restitution Payments

32425. Excludable restitution payments, as defined in Section 17133.1 of the Revenue and Taxation Code, shall not be included in the income or resources of an individual who is eligible for the exclusion under Section 17131.1 of the Revenue and Taxation Code, for determining eligibility for any grant, enrollment, or priority for services in any program under this code, to the extent permitted by federal law.

SEC. 2. Section 17131.1 is added to the Revenue and Taxation Code, to read:

17131.1. (a) Gross income does not include any excludable restitution payments received by an eligible individual (or the individual's heirs or estate) and any excludable interest.

(b) For purposes of this section:

(1) The basis of any property received by an eligible individual (or the individual's heirs or estate) as part of an excludable restitution payment shall be the fair market value of that property as of the time of the receipt.

(2) "Eligible individual" means a person who was persecuted on the basis of race, religion, physical or mental disability, or sexual orientation



by Nazi Germany, any other Axis regime, or any other Nazi-controlled or Nazi-allied country.

(3) “Excludable restitution payment” means any payment or distribution to an individual (or the individual’s heirs or estate) that is any of the following:

(A) Is payable by reason of the individual’s status as an eligible individual, including any amount payable by any foreign country, the United States of America, or any other foreign or domestic entity, or a fund established by any such country or entity, any amount payable as a result of a final resolution of a legal action, and any amount payable under a law providing for payments or restitution of property.

(B) Constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden from, or otherwise lost to, the individual before, during, or immediately after World War II by reason of the individual’s status as an eligible individual, including any proceeds of insurance under policies issued on eligible individuals by European insurance companies immediately before and during World War II.

(C) Consists of interest which is payable as part of any payment or distribution described in subparagraph (A) or (B).

(4) “Excludable interest” means any interest earned by any of the following:

(A) Escrow accounts or settlement funds established pursuant to the settlement of the action entitled “In re: Holocaust Victim Assets Litigation,” (E.D.N.Y.) C.A. No. 96-4849.

(B) Funds to benefit eligible individuals or their heirs created by the International Commission on Holocaust Insurance Claims as a result of the Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation “Remembrance, Responsibility, and Future,” dated July 17, 2000.

(C) Similar funds subject to the administration of the United States courts created to provide excludable restitution payments to eligible individuals (or eligible individuals’ heirs or estates).

(c) (1) This section shall apply to any amount received on or after January 1, 2000.

(2) Nothing in this section shall be construed to create any inference with respect to the proper tax treatment of any amount received before January 1, 2000.

SEC. 3. Section 2629.5 is added to the Unemployment Insurance Code, to read:

2629.5. To the extent permitted by federal law, excludable restitution payments, as defined in Section 17131.1 of the Revenue and



Taxation Code, may not be applied to reduce the amount of disability benefits to which an individual may otherwise be entitled under law.

SEC. 4. Section 11008.20 of the Welfare and Institutions Code is amended to read:

11008.20. (a) Notwithstanding any other provision of law, any amount, including any interest or property, received by a holocaust victim, as defined in subparagraph (A) of paragraph (2) of subdivision (b) of Section 17155 of the Revenue and Taxation Code either as compensation pursuant to the German Act Regulating Unresolved Property Claims, as amended (Gesetz zur Regelung offener Vermögensfragen), or as a result of a settlement of claims against any entity or individual for any recovered asset, shall not be considered as income or resources for purposes of determining eligibility to receive Medi-Cal benefits or public assistance benefits or the amounts of those benefits.

(b) To the extent permitted by federal law, excludable restitution payments, as defined in Section 17131.1 of the Revenue and Taxation Code, shall not be included in income or resources of any individual who is eligible for the exclusion under Section 17131.1 of the Revenue and Taxation Code for purposes of determining eligibility for any aid, grant, or benefit under this division.

(c) This section shall not be construed to permit any retroactive services or payments to be provided to recipients of Medi-Cal or public assistance benefits.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

