

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1542

Introduced by Senator Negrete McLeod

February 24, 2012

An act to add Sections 17053.82 and 23682 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, as amended, Negrete McLeod. Income taxes: credit: contributions to LEAP.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would ~~state the Legislature's intent to enact legislation that would~~ allow a credit against the taxes imposed under the Personal Income Tax Law and the Corporation Tax Law for ~~charitable~~ *monetary* contributions to a Local Educational Advancement Program (LEAP) organization that provides fee assistance for students in kindergarten and grades 1 ~~through~~ *to* 12, inclusive, from families with demonstrated financial needs, to receive academic services before or after *regular* school *hours*, on weekends, or in the summer, *as provided*.

This bill would take effect immediately as a tax levy.

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

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

- 1 *SECTION 1. Section 17053.82 is added to the Revenue and*
- 2 *Taxation Code, to read:*

1 17053.82. (a) (1) *There shall be allowed as a credit against*
2 *the “net tax,” as defined in Section 17039, an amount equal to the*
3 *monetary amount contributed during the taxable year by a taxpayer*
4 *to a local educational advancement program organization that*
5 *provides fee assistance to qualified students to receive academic*
6 *services outside of the regular school day.*

7 (2) *The maximum amount of credit allowed under this section*
8 *per taxable year is five hundred dollars (\$500) or one thousand*
9 *dollars (\$1,000) for persons making a joint return.*

10 (b) *For purposes of this section, the following definitions shall*
11 *apply:*

12 (1) *“Academic services” includes, but is not limited to,*
13 *after-school programs or summer and vacation school programs*
14 *at public or accredited private schools, tutoring, diagnostic*
15 *evaluations, college and career preparation, and online learning*
16 *that are provided outside of the regular school day. Academic*
17 *services may be provided by a public or private entity, including,*
18 *but not limited to, a public school, private school, school district,*
19 *school foundation, county office of education, educational service*
20 *agency, institution of higher education, faith-based organization,*
21 *community-based organization, or private business, including a*
22 *sole proprietor.*

23 (2) *“Fee assistance” means financial assistance to cover partial*
24 *or full payment of fees associated with the general cost of academic*
25 *services, including transportation costs, that is granted on a*
26 *needs-based, ability to pay, formula demonstrated by household*
27 *income or extenuating circumstances, or both.*

28 (3) *“Local educational advancement program organization”*
29 *means an organization that meets all of the following:*

30 (A) *Is an organization that is exempt from federal income tax*
31 *as an organization described in Section 501(c)(3) of the Internal*
32 *Revenue Code, or a government entity, including, but not limited*
33 *to, a school district, school foundation, county office of education,*
34 *educational service agency, institution of higher education,*
35 *faith-based organization, or community-based organization.*

36 (B) *Uses at least 97 percent of the monetary contributions that*
37 *it receives for fee assistance.*

38 (C) *Makes fee assistance available for students from more than*
39 *one school.*

1 (4) “Outside the regular school day” means the time before or
2 after regular school hours, on weekends, or in the summer.

3 (5) “Public school” means a school, including a charter school,
4 that provides instruction in kindergarten and grades 1 to 12,
5 inclusive, established by the Legislature, or by municipal or district
6 authority.

7 (6) “Qualified students” means students in kindergarten and
8 grades 1 to 12, inclusive, from families with demonstrated financial
9 needs, enrolled at a public school, accredited private school, or
10 home school.

11 (c) In the case where the credit allowed by this section exceeds
12 the “net tax,” the excess may be carried over to reduce the “net
13 tax” in the following year; and the succeeding four years if
14 necessary, until the credit is exhausted.

15 (d) The total amount of credit allowed under this section shall
16 not exceed one hundred million dollars (\$100,000,000). However,
17 this amount may increase by 25 percent in any taxable year after
18 90 percent of the total amount of credit allowed under this section,
19 as adjusted, has been allowed.

20 (e) The credit under this section shall be in addition to any
21 deduction under this part to which the taxpayer may be entitled.

22 (f) The Franchise Tax Board shall promulgate rules and
23 regulations as necessary or appropriate to implement this section.

24 SEC. 2. Section 23682 is added to the Revenue and Taxation
25 Code, to read:

26 23682. (a) (1) There shall be allowed as a credit against the
27 “tax,” as defined in Section 23036, an amount equal to the
28 monetary amount contributed during the taxable year by a taxpayer
29 to a local educational advancement program organization that
30 provides fee assistance to qualified students to receive academic
31 services outside of the regular school day.

32 (2) The maximum amount of credit allowed under this section
33 per taxable year is as follows:

34 (A) Fifty percent of the total tax liability of a taxpayer for the
35 taxable year under this part, before allowance of any credit under
36 this section, not to exceed three hundred thousand dollars
37 (\$300,000).

38 (B) Notwithstanding subparagraph (A), 75 percent of the total
39 tax liability of a taxpayer for the taxable year under this part,

1 before allowance of any credit under this section, if the following
2 are met:

3 (i) The taxpayer certifies that in each of the following two
4 succeeding taxable years, that the taxpayer will contribute an
5 amount that is at least 80 percent of the amount contributed in the
6 current taxable year. The certification shall be made in a form
7 and manner determined by the Franchise Tax Board.

8 (ii) The amount of credit allowed to a taxpayer under this
9 subparagraph shall not exceed three hundred thousand dollars
10 (\$300,000) each taxable year.

11 (iii) This subparagraph shall only apply to contributions that
12 are made in one consecutive three-taxable year period.

13 (b) For purposes of this section, the following definitions shall
14 apply:

15 (1) "Academic services" includes, but is not limited to,
16 afterschool programs or summer and vacation school programs
17 at public or accredited private schools, tutoring, diagnostic
18 evaluations, college and career preparation, and online learning
19 that are provided outside of the regular school day. Academic
20 services may be provided by a public or private entity, including,
21 but not limited to, a public school, private school, school district,
22 school foundation, county office of education, educational service
23 agency, institution of higher education, faith-based organization,
24 community-based organization, or private business, including a
25 sole proprietor.

26 (2) "Fee assistance" means financial assistance to cover partial
27 or full payment of fees associated with the general cost of academic
28 services, including transportation costs, that is granted on a
29 needs-based, ability to pay, formula demonstrated by household
30 income or extenuating circumstances, or both.

31 (3) "Local educational advancement program organization"
32 means an organization that meets all of the following:

33 (A) Is an organization that is exempt from federal income tax
34 as an organization described in Section 501(c)(3) of the Internal
35 Revenue Code, or a government entity, including, but not limited
36 to, a school district, school foundation, county office of education,
37 educational service agency, institution of higher education,
38 faith-based organization, or community-based organization.

39 (B) Uses at least 97 percent of the monetary contributions that
40 it receives for fee assistance.

1 (C) *Makes fee assistance available for students from more than*
2 *one school.*

3 (4) *“Outside the regular school day” means the time before or*
4 *after regular school hours, on weekends, or in the summer.*

5 (5) *“Public school” means a school, including a charter school,*
6 *that provides instruction in kindergarten and grades 1 to 12,*
7 *inclusive, established by the Legislature, or by municipal or district*
8 *authority.*

9 (6) *“Qualified students” means students in kindergarten and*
10 *grades 1 to 12, inclusive, from families with demonstrated financial*
11 *needs, enrolled at a public school, accredited private school, or*
12 *home school.*

13 (c) *Any credits used that were allowed pursuant to subparagraph*
14 *(B) of paragraph (2) of subdivision (a) where a recapture event*
15 *occurs shall be included in the income in the taxable year in which*
16 *the recapture event occurred. For purposes of this subdivision, a*
17 *“recapture event” occurs when the taxpayer fails to contribute an*
18 *amount as certified in clause (i) of subparagraph (B) of paragraph*
19 *(2) of subdivision (a).*

20 (d) *The total amount of credit allowed under this section shall*
21 *not exceed two hundred million dollars (\$200,000,000). However,*
22 *this amount may increase by 25 percent in any taxable year after*
23 *90 percent of the total amount of credit allowed under this section,*
24 *as adjusted, has been allowed.*

25 (e) *The Franchise Tax Board shall promulgate rules and*
26 *regulations as necessary or appropriate to implement this section.*

27 *SEC. 3. This act provides for a tax levy within the meaning of*
28 *Article IV of the Constitution and shall go into immediate effect.*

29 ~~SECTION 1. It is the intent of the Legislature to enact~~
30 ~~legislation that would allow a credit against the taxes imposed~~
31 ~~under the Personal Income Tax Law and the Corporation Tax Law~~
32 ~~for charitable contributions to a Local Educational Advancement~~
33 ~~Program (LEAP) organization that provides fee assistance for~~
34 ~~students in kindergarten and grades 1 through 12, inclusive, from~~
35 ~~families with demonstrated financial needs, to receive academic~~
36 ~~services before or after school, on weekends, or in the summer.~~