

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 943**

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**Introduced by Assembly Member Nestande**

February 22, 2013

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An act to add and repeal Sections ~~1705.83, 17053.84, 23683, and 23684~~ 23691 and 23692 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 943, as amended, Nestande. ~~Income taxes: credits: qualified scholarships: qualified programs. Corporation Tax Law: credits: K-12 education programs and scholarships.~~

~~The Personal Income Tax Law and the Corporation Tax Law allow~~ allows various credits against the ~~taxes~~ tax imposed by that law.

This bill, for taxable years beginning on or after January 1, ~~2013, 2015,~~ and before January 1, ~~2017, 2020,~~ would allow a credit against the ~~taxes~~ tax imposed under ~~those laws~~ that law for monetary contributions to nonprofit organizations to fund qualified scholarships for specified pupils ~~for transportation costs or~~ to attend private schools, as defined, or to fund grants for ~~qualified K-12 education innovative~~ programs relating to science, technology, engineering, and math literacy, and the arts for *private*, public, and charter schools, as defined.

This bill would take effect immediately as a tax levy.

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

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

1     *SECTION 1. This act shall be known and may be cited as the*  
2     *Education Investment Incentives Act.*

3     *SEC. 2. The Legislature finds and declares the following:*

4     *(a) Providing tax incentives to encourage private investments*  
5     *for the common good is sound public policy.*

6     *(b) Expanding educational opportunities and improving the*  
7     *quality and access of educational services within the state are*  
8     *valid public purposes that the Legislature may promote using its*  
9     *sovereign power to determine tax policy.*

10    *(c) Creative tax policy can inspire greater charitable*  
11    *contributions and public-private partnerships that ensure*  
12    *additional resources for the education of all children in California.*

13    *(d) Encouraging voluntary support for education, without*  
14    *prejudice for or against any state-sanctioned educational*  
15    *enterprise promotes the state’s interest and common good in*  
16    *providing the highest quality education to all children in the state.*

17    *(e) At a time when fiscal realities challenging California school*  
18    *communities demand innovative ways to deliver vital education*  
19    *services to public and private pupils in kindergarten and grades*  
20    *1 to 12, inclusive, charitable giving for educational purposes*  
21    *should be stimulated.*

22    *SEC. 3. Section 23691 is added to the Revenue and Taxation*  
23    *Code, to read:*

24    *23691. (a) For each taxable year beginning on or after*  
25    *January 1, 2015, and before January 1, 2020, there shall be*  
26    *allowed as a credit against the “tax,” as defined in Section 23036,*  
27    *an amount equal to 50 percent of a monetary contribution provided*  
28    *by a taxpayer to a nonprofit education improvement organization*  
29    *to fund a qualified grant for a K-12 education innovative program*  
30    *for pupils attending private, public, or charter schools.*

31    *(b) For purposes of this section:*

32    *(1) “Charter school” means a California school established*  
33    *pursuant to Part 26.8 (commencing with Section 47600) of Division*  
34    *4 of Title 2 of the Education Code providing elementary or high*  
35    *school education that is located in an eligible school attendance*  
36    *area, as defined in Section 1113 of the federal Elementary and*  
37    *Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).*

1 (2) “Education improvement organization (EIO)” means a  
2 charitable institution in this state organized and operated as any  
3 of the following type of institution: (A) art museum, (B) science  
4 center, (C) institution of higher education, (D) districtwide  
5 educational enrichment program, or (E) any other organization  
6 with the primary purpose to provide monetary support to a K-12  
7 education innovative program, that meets all of the following  
8 requirements:

9 (i) Contributes at least 80 percent of the qualified grants to a  
10 California public or private school for funding K-12 education  
11 innovative programs.

12 (ii) (I) Does not have a person that has been convicted of any  
13 sex offense as defined in Section 44010 of the Education Code  
14 supervising or assisting a pupil participating in a K-12 education  
15 innovative program.

16 (II) For the purposes of this section, a plea or verdict of guilty,  
17 a finding of guilt by a court in a trial without jury, or a conviction  
18 following a plea of nolo contendere shall be deemed to be a  
19 conviction.

20 (iii) Requires each employee or volunteer, whether prospective  
21 or current, who will directly and personally supervise or assist  
22 any pupil to comply with the provisions of Section 44237 of the  
23 Education Code in order to ascertain whether the prospective or  
24 current employee or volunteer has been convicted of any sex  
25 offense as defined in Section 44010 of the Education Code.

26 (iv) Applied to receive a qualified grant with the Franchise Tax  
27 Board.

28 (3) “Nonprofit” means an organization that meets all of the  
29 following requirements:

30 (A) Is formed as any of the following:

31 (i) A nonprofit public benefit corporation described in Part 2  
32 (commencing with Section 5110) of Division 2 of Title 1 of the  
33 Corporations Code.

34 (ii) A nonprofit religious corporation described in Part 4  
35 (commencing with Section 9110) of Division 2 of Title 1 of the  
36 Corporations Code.

37 (iii) Any other charitable corporation, as defined by Section  
38 12582.1 of the Government Code.

39 (iv) A duly authorized foreign nonprofit corporation that has  
40 complied with all registration requirements under Section 6910

1 of, and Chapter 21 (commencing with Section 2100) of Division  
2 1 of Title 1 of, the Corporations Code.

3 (B) Is an organization exempt from federal income tax as an  
4 organization described in Section 501(c)(3) of the Internal Revenue  
5 Code.

6 (4) (A) “Qualified grant” means a grant that does all the  
7 following:

8 (i) Includes guidelines that detail what specific programs may  
9 be funded by the grant moneys.

10 (ii) Limits the amount of grant moneys that may be used for  
11 administration or overhead costs.

12 (iii) Is included on a list created by the State Department of  
13 Education pursuant to subdivision (i).

14 (B) A qualified grant may include cash payments to a California  
15 private, public, or charter school to carry on a K-12 education  
16 innovative program or may include costs incurred by an EIO in  
17 providing a program to, or in conjunction with, a California  
18 private, public, or charter school.

19 (5) “K-12 education innovative program” means instruction,  
20 programs, or other activities in science, technology, engineering,  
21 and math learning, or the visual and performing arts for a private,  
22 public, or charter school with a kindergarten or any grades 1 to  
23 12, inclusive, that involve one or more of the following:

24 (A) An advanced academic or similar program that is not part  
25 of the regular program of a private, public, or charter school, but  
26 enhances the curriculum of the school.

27 (B) A creative focus or delivery, including Internet-based and  
28 distance learning technologies, methodology, or skill training that  
29 enriches the academic program of the school.

30 (C) An integration of out-of-school time programs, offered  
31 before or after school hours, on weekends, as a summer program,  
32 or as a year-round program, that reinforces learning in the areas  
33 of science, technology, engineering, and mathematics, or visual  
34 and performing arts education of the curriculum year round.

35 (D) A cocurricular activity for pupils that is an elected  
36 educational activity that supplements education, including, but  
37 not limited to, gifted programs, visual and performing arts,  
38 academic clubs, and educational field trips.

39 (6) “Private school” means a person, firm, association,  
40 partnership, or corporation offering or conducting private school

1 *instruction in the State of California that meets all of the following*  
2 *requirements:*

3 *(A) Is accredited by the Western Association of Schools and*  
4 *Colleges or an affiliated organization.*

5 *(B) Has filed a current private school affidavit with the State*  
6 *Department of Education in accordance with Section 33190 of the*  
7 *Education Code.*

8 *(C) Complies with applicable provisions of the Health and*  
9 *Safety Code.*

10 *(D) Complies with applicable provisions of the Fair Employment*  
11 *and Housing Act (Part 2.8 (commencing with Section 12900) of*  
12 *Division 3 of Title 2 of the Government Code).*

13 *(E) Utilizes background checks in connection with hiring all*  
14 *school employees, consistent with the standards set forth in*  
15 *subdivision (a) of Section 44237 of the Education Code.*

16 *(7) "Public school" means any California day or evening*  
17 *elementary, middle, junior high, or high school established by*  
18 *statute or by municipal or district authority that is located in an*  
19 *eligible school attendance area, as defined in Section 1113 of the*  
20 *federal Elementary and Secondary Education Act (20 U.S.C. Sec.*  
21 *6301 et seq.).*

22 *(c) The amount of the credit shall not exceed 50 percent of the*  
23 *"tax" of the taxpayer for a taxable year.*

24 *(d) The taxpayer shall receive a certification by the Franchise*  
25 *Tax Board upon determining that the contribution meets the*  
26 *requirements of this section and shall apply with the Franchise*  
27 *Tax Board to receive a credit.*

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

32 *(f) This credit shall be in lieu of any other credit or deduction*  
33 *that the taxpayer may otherwise claim pursuant to this part with*  
34 *respect to a monetary contribution described in subdivision (a).*

35 *(g) This credit shall be claimed on a timely filed original return.*

36 *(h) (1) The aggregate amount of credits allowed under this*  
37 *section and Section 23692 shall not exceed fifty million dollars*  
38 *(\$50,000,000) for each calendar year.*

39 *(2) The allocation of credits shall be on a first-come, first-serve*  
40 *basis.*

- 1     (3) *The Legislature may increase the amount in paragraph (1).*
- 2     (i) *The Franchise Tax Board and the State Department of*
- 3     *Education shall administer this credit.*
- 4     (1) *The Franchise Tax Board shall perform all of the following:*
- 5     (A) *Promulgate rules and regulations as necessary or*
- 6     *appropriate to implement this credit.*
- 7     (B) *Establish application forms and procedures.*
- 8     (C) *Track credits claimed.*
- 9     (D) *Post aggregate totals of the credits claimed on the Internet*
- 10    *Web site of the Franchise Tax Board.*
- 11    (E) *Determine when the aggregate total of credits reaches fifty*
- 12    *million dollars (\$50,000,000).*
- 13    (F) *Certify that the contributions meet the requirements of this*
- 14    *section.*
- 15    (2) *The State Department of Education shall do the following:*
- 16    (A) *Adopt rules necessary to determine whether the following*
- 17    *meet the requirements of this section:*
- 18    (i) *An EIO.*
- 19    (ii) *A private school.*
- 20    (iii) *A contribution.*
- 21    (B) *Submit a list of eligible ESOs that comply with the*
- 22    *requirements of this section to the Franchise Tax Board annually*
- 23    *by March 15.*
- 24    (j) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
- 25    *Division 3 of Title 2 of the Government Code shall not apply to*
- 26    *the guidelines or regulations adopted pursuant to this section.*
- 27    (k) *This section shall remain in effect only until December 1,*
- 28    *2020, and as of that date is repealed.*
- 29    SEC. 4. *Section 23692 is added to the Revenue and Taxation*
- 30    *Code, to read:*
- 31    23692. (a) *For each taxable year beginning on or after*
- 32    *January 1, 2015, and before January 1, 2020, there shall be*
- 33    *allowed as a credit against the “tax,” as defined in Section 23036,*
- 34    *an amount equal to 50 percent of the monetary contribution*
- 35    *provided by a taxpayer to a nonprofit education scholarship*
- 36    *organization to fund qualified K-12 education scholarships for a*
- 37    *specified pupil to attend private school or to fund partial or full*
- 38    *payments of fees associated with the general costs of transportation*
- 39    *to attend a private, public, or charter school.*
- 40    (b) *For purposes of this section:*

- 1 (1) “Education scholarship organization (ESO)” means a  
2 charitable institution in this state that meets the following:
- 3 (A) Is organized and operated with the primary purpose of  
4 providing qualified K-12 education scholarships to pupils attending  
5 a private school in California.
- 6 (B) (i) Allocates at least 80 percent of contributions for which  
7 a credit is claimed for qualified K-12 education scholarships for  
8 ESOs with three or more years of audits.
- 9 (ii) Allocates at least 90 percent of contributions for which a  
10 credit is claimed for qualified K-12 education scholarships for  
11 ESOs with less than three years of audits.
- 12 (C) Makes qualified K-12 education scholarships available for  
13 pupils from more than one school.
- 14 (D) Retains data on the progress of the pupils participating in  
15 qualified K-12 education scholarships on nationally available  
16 norm-referenced tests to evaluate the program’s efficacy.
- 17 (E) Submits to the Franchise Tax Board financial and  
18 compliance audit reports performed by a certified public  
19 accountant.
- 20 (F) Submits to the State Department of Education quarterly  
21 reports on the number of qualified K-12 education scholarship  
22 recipients and the schools that the recipients attend.
- 23 (G) Applies to participate in this credit program with the  
24 Franchise Tax Board.
- 25 (2) “Nonprofit” means an organization that meets all of the  
26 following requirements:
- 27 (A) Is formed as any of the following:
- 28 (i) A nonprofit public benefit corporation described in Part 2  
29 (commencing with Section 5110) of Division 2 of Title 1 of the  
30 Corporations Code.
- 31 (ii) A nonprofit religious corporation described in Part 4  
32 (commencing with Section 9110) of Division 2 of Title 1 of the  
33 Corporations Code.
- 34 (iii) Any other charitable corporation, as defined by Section  
35 12582.1 of the Government Code.
- 36 (iv) A duly authorized foreign nonprofit corporation that has  
37 complied with the registration requirements under Section 6910  
38 of, and Chapter 21 (commencing with Section 2100) of Division  
39 1 of Title 1 of, the Corporations Code.

1 (B) *Is an organization exempt from federal income tax as an*  
2 *organization described in Section 501(c)(3) of the Internal Revenue*  
3 *Code.*

4 (2) *“Qualified K-12 education scholarship” means either of*  
5 *the following:*

6 (A) *An award of tuition assistance amounting to at least 65*  
7 *percent of the basic state per-pupil funding, or a private school’s*  
8 *actual tuition and fees, whichever is less, that meets all of the*  
9 *following requirements:*

10 (i) *An initial K-12 education scholarship shall be awarded to*  
11 *a specified pupil who attended a public or charter school the*  
12 *previous year or is entering transitional kindergarten through*  
13 *grade 1.*

14 (ii) *May be renewed at the request of the specified pupil for*  
15 *each school year until graduation from high school.*

16 (iii) *Shall be portable and follow the specified pupil from one*  
17 *school to another.*

18 (iv) *Shall be provided to a private school of the specified pupil’s*  
19 *choosing under the following conditions:*

20 (I) *Each ESO shall establish criteria for granting scholarships*  
21 *that meet the requirements of this section.*

22 (II) *The pupil receiving the assistance shall remain a specified*  
23 *pupil.*

24 (III) *The specified pupil shall attend a private school.*

25 (IV) *The specified pupil shall remain enrolled and in attendance*  
26 *at the private school throughout the school year unless excused*  
27 *by the applicable program for illness or other good cause.*

28 (V) *The specified pupil and a parent or legal guardian of the*  
29 *specified pupil shall comply with all applicable policies of the*  
30 *private school.*

31 (VI) *A parent or legal guardian of the specified pupil shall*  
32 *ensure that the pupil has reliable transportation to and from the*  
33 *applicable program.*

34 (B) *Financial assistance for a specified pupil to partially or*  
35 *fully pay for the fees associated with the general costs of*  
36 *transportation to attend a private, public, or charter school.*

37 (3) *“Specified pupil” means a minor who has applied for a*  
38 *K-12 education scholarship and who meets any of the following*  
39 *requirements:*



1 (A) *Is a pupil with special needs who has been identified by a*  
2 *school district as having a disability under the federal Individuals*  
3 *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).*

4 (B) *Is a pupil within foster care who has been placed in a foster*  
5 *care system within the State of California at any time prior to*  
6 *graduating high school.*

7 (i) *A specified pupil in this subparagraph is not required to be*  
8 *previously enrolled in a public school or charter school to*  
9 *participate.*

10 (ii) *A specified pupil remains eligible for a scholarship until he*  
11 *or she graduates from high school or leaves the foster care*  
12 *program.*

13 (4) *“Private school” means a person, firm, association,*  
14 *partnership, or corporation offering or conducting private school*  
15 *instruction in the State of California on the elementary or high*  
16 *school level, that meets all of the following requirements:*

17 (A) *Is accredited by the Western Association of Schools and*  
18 *Colleges or an affiliated organization.*

19 (B) *Has filed a current private school affidavit with the State*  
20 *Department of Education in accordance with Section 33190 of the*  
21 *Education Code.*

22 (C) *Complies with applicable provisions of the Health and*  
23 *Safety Code.*

24 (D) *Complies with applicable provisions of the Fair Employment*  
25 *and Housing Act (Part 2.8 (commencing with Section 12900) of*  
26 *Division 3 of Title 2 of the Government Code).*

27 (E) *Utilizes background checks in connection with hiring all*  
28 *school employees, consistent with the standards set forth in*  
29 *subdivision (a) of Section 44237 of the Education Code.*

30 (F) *Requires a specified pupil to take a nationally available*  
31 *norm-referenced test.*

32 (G) *Has obtained, if it has been in operation for less than three*  
33 *years, a surety bond or letter of credit in an amount equal to the*  
34 *value of the education scholarship payments for one quarter.*

35 (c) *The amount of the credit shall not exceed 50 percent of the*  
36 *“tax” of the taxpayer for a taxable year.*

37 (d) *The taxpayer shall receive a certification by the Franchise*  
38 *Tax Board upon a determination that the contribution meets the*  
39 *requirements of this section and shall apply with the Franchise*  
40 *Tax Board to receive a credit.*

1 (e) *In the case where the credit allowed by this section exceeds*  
2 *the “tax,” the excess may be carried over to reduce the “tax” in*  
3 *the following year, and succeeding five years if necessary, until*  
4 *the credit is exhausted.*

5 (f) *This credit shall be in lieu of any other credit or deduction*  
6 *that the taxpayer may otherwise claim pursuant to this part with*  
7 *respect to a monetary contribution described in subdivision (a).*

8 (g) *This credit shall be claimed on a timely filed original return.*

9 (h) (1) *The aggregate amount of credits allowed under this*  
10 *section and Section 23691 shall not exceed fifty million dollars*  
11 *(\$50,000,000) for each calendar year.*

12 (2) *The allocation of credits shall be on a first-come, first-serve*  
13 *basis.*

14 (3) *The Legislature may increase the amount in paragraph (1).*

15 (i) *The Franchise Tax Board and the State Department of*  
16 *Education shall administer this credit.*

17 (1) *The Franchise Tax Board shall perform all of the following:*

18 (A) *Promulgate rules and regulations as necessary or*  
19 *appropriate to implement this credit.*

20 (B) *Establish application forms and procedures.*

21 (C) *Track credits claimed.*

22 (D) *Post aggregate totals of the credits claimed on the Internet*  
23 *Web site of the Franchise Tax Board.*

24 (E) *Determine when the aggregate total of the credits reaches*  
25 *fifty million dollars (\$50,000,000).*

26 (F) *Certify that the contributions meet the requirements of this*  
27 *section needed to receive a credit.*

28 (2) *The State Department of Education shall do the following:*

29 (A) *Adopt rules necessary to determine whether the following*  
30 *meet the requirements of this section:*

31 (i) *An ESO.*

32 (ii) *A private school.*

33 (iii) *A contribution.*

34 (B) *Submit a list of eligible ESOs that comply with the*  
35 *requirements of this section to the Franchise Tax Board annually*  
36 *by March 15.*

37 (j) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
38 *Division 3 of Title 2 of the Government Code does not apply to*  
39 *the guidelines or regulations adopted pursuant to this section.*

1 (k) This section shall remain in effect only until December 1,  
2 2020, and as of that date is repealed.

3 SEC. 5. This act provides for a tax levy within the meaning of  
4 Article IV of the Constitution and shall go into immediate effect.

5 SECTION 1. Section 17053.83 is added to the Revenue and  
6 Taxation Code, to read:

7 17053.83.— (a) For each taxable year beginning on or after  
8 January 1, 2013, and before January 1, 2017, there shall be allowed  
9 as a credit against the “net tax,” as defined in Section 17039, an  
10 amount equal to the monetary amount contributed by a taxpayer  
11 to a nonprofit organization to fund a qualified scholarship. The  
12 credit shall not exceed 50 percent of the “net tax” for the taxable  
13 year.

14 (b) For purposes of this section:

15 (1) “Nonprofit organization” means an organization that is  
16 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

17 (2) “Private school” means a person, firm, association,  
18 partnership, or corporation offering or conducting private school  
19 instruction on the elementary or high school level.

20 (3) “Qualified scholarship” means a scholarship for a pupil with  
21 special needs or a pupil in foster care to attend a private school  
22 that meets all of the following:

23 (A) The pupil remains eligible for the scholarship until he or  
24 she graduates from high school or leaves the foster care program.

25 (B) The scholarship may be used at any private school if the  
26 pupil’s residence changes and attendance at a particular private  
27 school is not feasible.

28 (C) Eligibility for the scholarship shall be based on family  
29 income, not to exceed 250 percent of the federal poverty guidelines.  
30 A partial scholarship may be granted if the family income of a  
31 pupil that was awarded a scholarship in the previous year increases  
32 in the following year.

33 (e) A nonprofit organization that provides qualified scholarships  
34 shall retain data on the educational improvement of scholarship  
35 recipients so that the efficacy of the qualified scholarship program  
36 may be evaluated.

37 (d) The aggregate amount of credit allowed to all taxpayers  
38 under this section and Section 23684 shall not exceed fifty million  
39 dollars (\$50,000,000) for all taxable years.

1 (e) ~~In the case where the credit allowed by this section exceeds~~  
2 ~~the “net tax,” the excess may be carried over to reduce the “net~~  
3 ~~tax” in the following year, and the succeeding years if necessary,~~  
4 ~~until the credit is exhausted.~~

5 (f) ~~The credit under this section shall be in addition to any~~  
6 ~~deduction under this part to which the taxpayer may be entitled.~~

7 (g) ~~(1) The Franchise Tax Board shall promulgate rules and~~  
8 ~~regulations as necessary or appropriate to implement this section.~~

9 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
10 ~~Division 3 of Title 2 of the Government Code does not apply to~~  
11 ~~any standard, criterion, procedure, determination, rule, notice, or~~  
12 ~~guideline established or issued by the Franchise Tax Board~~  
13 ~~pursuant to this section.~~

14 (h) ~~This section shall remain in effect only until December 1,~~  
15 ~~2017, and as of that date is repealed.~~

16 SEC. 2. ~~Section 17053.84 is added to the Revenue and Taxation~~  
17 ~~Code, to read:~~

18 ~~17053.84.— (a) For each taxable year beginning on or after~~  
19 ~~January 1, 2013, and before January 1, 2017, there shall be allowed~~  
20 ~~as a credit against the “net tax,” as defined in Section 17039, an~~  
21 ~~amount equal to the monetary amount contributed by a taxpayer~~  
22 ~~to a nonprofit organization to provide a grant for a qualified~~  
23 ~~program. The credit shall not exceed 50 percent of the “net tax”~~  
24 ~~for the taxable year.~~

25 (b) ~~For purposes of this section:~~

26 (1) ~~“Charter school” means a school established pursuant to~~  
27 ~~Part 26.8 (commencing with Section 47600) of Title 2 of the~~  
28 ~~Education Code providing elementary or high school education.~~

29 (2) ~~“Nonprofit organization” means an organization that is~~  
30 ~~tax-exempt under Section 501(c)(3) of the Internal Revenue Code.~~

31 (3) ~~“Public school” means any day or evening elementary school~~  
32 ~~and any day or evening high school established by statute, or by~~  
33 ~~municipal or district authority.~~

34 (4) ~~“Qualified program” means a program in science,~~  
35 ~~technology, engineering, and math literacy, and the arts for public~~  
36 ~~and charter schools that is both of the following:~~

37 (A) ~~An advanced academic or similar program that is not part~~  
38 ~~of the regular program of a public or charter school, but enhances~~  
39 ~~the curriculum of the public or charter school.~~

1 ~~(B) A cocurricular activity for pupils that is an optional,~~  
2 ~~noncredit educational activity that supplements education,~~  
3 ~~including, but not limited to, gifted programs, visual and~~  
4 ~~performing arts, music arts, academic clubs, and educational field~~  
5 ~~trips.~~

6 ~~(e) A grant provided by the nonprofit organization for a qualified~~  
7 ~~program shall be provided to a specific public or charter school,~~  
8 ~~or more than one school, of the nonprofit organization's choosing.~~  
9 ~~A grant shall include guidelines that detail what specific programs~~  
10 ~~may be funded by the grant moneys and shall prohibit the use of~~  
11 ~~grant moneys for administration or overhead costs.~~

12 ~~(d) The aggregate amount of credit allowed to all taxpayers~~  
13 ~~under this section and Section 23683 shall not exceed fifty million~~  
14 ~~dollars (\$50,000,000) for all taxable years.~~

15 ~~(e) In the case where the credit allowed by this section exceeds~~  
16 ~~the "net tax," the excess may be carried over to reduce the "net~~  
17 ~~tax" in the following year, and the succeeding years if necessary,~~  
18 ~~until the credit is exhausted.~~

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

21 ~~(g) (1) The Franchise Tax Board shall promulgate rules and~~  
22 ~~regulations as necessary or appropriate to implement this section.~~

23 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
24 ~~Division 3 of Title 2 of the Government Code does not apply to~~  
25 ~~any standard, criterion, procedure, determination, rule, notice, or~~  
26 ~~guideline established or issued by the Franchise Tax Board~~  
27 ~~pursuant to this section.~~

28 ~~(h) This section shall remain in effect only until December 1,~~  
29 ~~2017, and as of that date is repealed.~~

30 ~~SEC. 3. Section 23683 is added to the Revenue and Taxation~~  
31 ~~Code, to read:~~

32 ~~23683. (a) For each taxable year beginning on or after January~~  
33 ~~1, 2013, and before January 1, 2017, there shall be allowed as a~~  
34 ~~credit against the "tax," as defined in Section 23036, an amount~~  
35 ~~equal to the monetary amount contributed by a taxpayer to a~~  
36 ~~nonprofit organization to fund a qualified scholarship. The credit~~  
37 ~~shall not exceed 50 percent of the "tax" for the taxable year.~~

38 ~~(b) For purposes of this section:~~

39 ~~(1) "Nonprofit organization" means an organization that is~~  
40 ~~tax-exempt under Section 501(c)(3) of the Internal Revenue Code.~~

1     ~~(2) “Private school” means a person, firm, association,~~  
2 ~~partnership, or corporation offering or conducting private school~~  
3 ~~instruction on the elementary or high school level.~~

4     ~~(3) “Qualified scholarship” means a scholarship for a pupil with~~  
5 ~~special needs, a pupil in foster care, or a pupil from a low-income~~  
6 ~~family, to attend a private school that meets all of the following:~~

7         ~~(A) The pupil remains eligible for the scholarship until he or~~  
8 ~~she graduates from high school or leaves the foster care program.~~

9         ~~(B) The scholarship may be used at any private school if the~~  
10 ~~pupil’s residence changes and attendance at a particular private~~  
11 ~~school is not feasible.~~

12         ~~(C) Eligibility for the scholarship shall be based on family~~  
13 ~~income, not to exceed 250 percent of the federal poverty guidelines.~~  
14 ~~A partial scholarship may be granted if the family income of a~~  
15 ~~pupil that was awarded a scholarship in the previous year increases~~  
16 ~~in the following year.~~

17         ~~(e) A nonprofit organization that provides qualified scholarships~~  
18 ~~shall retain data on the educational improvement of scholarship~~  
19 ~~recipients so that the efficacy of the qualified scholarship program~~  
20 ~~may be evaluated.~~

21         ~~(d) The aggregate amount of credit allowed to all taxpayers~~  
22 ~~under this section and Section 23684 shall not exceed fifty million~~  
23 ~~dollars (\$50,000,000) for all taxable years.~~

24         ~~(e) In the case where the credit allowed by this section exceeds~~  
25 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~  
26 ~~the following year, and the succeeding years if necessary, until the~~  
27 ~~credit is exhausted.~~

28         ~~(f) The credit under this section shall be in addition to any~~  
29 ~~deduction under this part to which the taxpayer may be entitled.~~

30         ~~(g) (1) The Franchise Tax Board shall promulgate rules and~~  
31 ~~regulations as necessary or appropriate to implement this section.~~

32         ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
33 ~~Division 3 of Title 2 of the Government Code does not apply to~~  
34 ~~any standard, criterion, procedure, determination, rule, notice, or~~  
35 ~~guideline established or issued by the Franchise Tax Board~~  
36 ~~pursuant to this section.~~

37         ~~(h) This section shall remain in effect only until December 1,~~  
38 ~~2017, and as of that date is repealed.~~

39     ~~SEC. 4. Section 23684 is added to the Revenue and Taxation~~  
40 ~~Code, to read:~~

1 23684. (a) For each taxable year beginning on or after January  
2 1, 2013, and before January 1, 2017, there shall be allowed as a  
3 credit against the “tax,” as defined in Section 23036, an amount  
4 equal to the monetary amount contributed by a taxpayer to a  
5 nonprofit organization to provide a grant for a qualified program.  
6 The credit shall not exceed 50 percent of the “tax” for the taxable  
7 year.

8 (b) For purposes of this section:

9 (1) “Charter school” means a school established pursuant to  
10 Part 26.8 (commencing with Section 47600) of Title 2 of the  
11 Education Code providing elementary or high school education.

12 (2) “Nonprofit organization” means an organization that is  
13 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

14 (3) “Public school” means any day or evening elementary school  
15 and any day or evening high school established by statute, or by  
16 municipal or district authority.

17 (4) “Qualified program” means a program in science,  
18 technology, engineering, and math literacy, and the arts for public  
19 and charter schools that is both of the following:

20 (A) An advanced academic or similar program that is not part  
21 of the regular program of a public or charter school, but enhances  
22 the curriculum of the public or charter school.

23 (B) A cocurricular activity for pupils that is an optional,  
24 noncredit educational activity that supplements education,  
25 including, but not limited to, gifted programs, visual and  
26 performing arts, music arts, academic clubs, and educational field  
27 trips.

28 (e) A grant provided by the nonprofit organization for a qualified  
29 program shall be provided to a specific public or charter school,  
30 or more than one school, of the nonprofit organization’s choosing.  
31 A grant shall include guidelines that detail what specific programs  
32 may be funded by the grant moneys and shall prohibit the use of  
33 grant moneys for administration or overhead costs.

34 (d) The aggregate amount of credit allowed to all taxpayers  
35 under this section and Section 23683 shall not exceed fifty million  
36 dollars (\$50,000,000) for all taxable years.

37 (e) In the case where the credit allowed by this section exceeds  
38 the “tax,” the excess may be carried over to reduce the “tax” in  
39 the following year, and the succeeding years if necessary, until the  
40 credit is exhausted.

- 1     ~~(f) The credit under this section shall be in addition to any~~
- 2     ~~deduction under this part to which the taxpayer may be entitled.~~
- 3     ~~(g) (1) The Franchise Tax Board shall promulgate rules and~~
- 4     ~~regulations as necessary or appropriate to implement this section.~~
- 5     ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
- 6     ~~Division 3 of Title 2 of the Government Code does not apply to~~
- 7     ~~any standard, criterion, procedure, determination, rule, notice, or~~
- 8     ~~guideline established or issued by the Franchise Tax Board~~
- 9     ~~pursuant to this section.~~
- 10    ~~(h) This section shall remain in effect only until December 1,~~
- 11    ~~2017, and as of that date is repealed.~~
- 12    ~~SEC. 5. This act provides for a tax levy within the meaning of~~
- 13    ~~Article IV of the Constitution and shall go into immediate effect.~~