

AMENDED IN ASSEMBLY JANUARY 15, 1998

AMENDED IN ASSEMBLY JANUARY 5, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1613

Introduced by Assembly Member Scott

(Principal coauthor: Assembly Member Lempert)

**(Coauthors: Assembly Members Aguiar, Alquist, Cardenas,
Davis, Figueroa, Mazzoni, Morrissey, Sweeney,
Villaraigosa, and Wright)**

(Coauthors: Senators Costa, Karnette, Schiff, and Solis)

June 3, 1997

An act to amend Section 17140 of, and to add Sections 17053.51 and 17204 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, Scott. Personal income taxes: education.

The Personal Income Tax Law incorporates by reference various provisions of the federal Internal Revenue Code as enacted as of a specified date.

This bill would enact the Higher Education Affordability Act which would make certain recent changes in federal income tax laws applicable, with specified exceptions and modifications, for purposes of that law with respect to the HOPE and lifetime learning credits, qualified state tuition

programs, and the deduction for interest paid on education loans.

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
2 as the Higher Education Affordability Act.

3 SEC. 2. Section 17053.51 is added to the Revenue and
4 Taxation Code, to read:

5 17053.51. For each taxable year beginning on or after
6 January 1, 1998, there shall be allowed as a credit against
7 the "net tax," as defined by Section 17039, an amount
8 equal to the amount allowed by Section 25A of the
9 Internal Revenue Code, as added by Section 201 of the
10 Taxpayer Relief Act of 1997 (P.L. 105-34), modified as
11 follows:

12 (a) (1) Section 25A(b)(1)(A) of the Internal
13 Revenue Code, allowing a 100 percent HOPE Scholarship
14 Credit for qualified tuition and related expenses that do
15 not exceed one thousand dollars (\$1,000) shall not apply.

16 (2) Section 25A(b)(1)(B) of the Internal Revenue
17 Code, allowing a 50 percent HOPE Scholarship Credit for
18 such expenses so paid as exceeds one thousand dollars
19 (\$1,000) but does not exceed the applicable limit, shall be
20 modified by substituting "25 percent" for "50 percent."

21 (b) Section 25A(c)(1) of the Internal Revenue Code,
22 relating to Lifetime Learning Credit, shall be modified by
23 substituting "5 percent" for "20 percent."

24 (c) Any amount that is described in subdivision (a) for
25 which a federal HOPE Scholarship Credit is claimed shall
26 be treated as if the amount were allowed for purposes of
27 Section ~~25A(e)(1)(A)~~ 25A(c)(2)(A), relating to
28 coordination with HOPE Scholarship Credit.

29 SEC. 3. Section 17140 of the Revenue and Taxation
30 Code is amended to read:

31 17140. (a) For purposes of this section, the following
32 terms have the following meanings as provided in the



1 Golden State Scholarshare Trust Act (Article 19
2 (commencing with Section 69980) of Chapter 2 of Part 42
3 of the Education Code):

4 (1) “Beneficiary” has the meaning set forth in
5 subdivision (c) of Section 69980 of the Education Code.

6 (2) “Benefit” has the meaning set forth in subdivision
7 (d) of Section 69980 of the Education Code.

8 (3) “Participant” has the meaning set forth in
9 subdivision (h) of Section 69980 of the Education Code.

10 (4) “Participation agreement” has the meaning set
11 forth in subdivision (i) of Section 69980 of the Education
12 Code.

13 (5) “Scholarshare trust” has the meaning set forth in
14 subdivision (f) of Section 69980 of the Education Code.

15 (b) Except as otherwise provided in subdivision (c),
16 gross income of a beneficiary or a participant does not
17 include any of the following:

18 (1) Any distribution or earnings under a Scholarshare
19 trust participation agreement, as provided in Article 19
20 (commencing with Section 69980) of Chapter 2 of Part 42
21 of the Education Code.

22 (2) Any contribution to the Scholarshare trust on
23 behalf of a beneficiary shall not be includable as gross
24 income of that beneficiary.

25 (c) (1) Any distribution under a Scholarshare trust
26 participation agreement shall be includable in the gross
27 income of the distributee in the manner as provided
28 under Section 72 of the Internal Revenue Code, as
29 modified by Section 17085, to the extent not excluded
30 from gross income under this part. For purposes of
31 applying Section 72 of the Internal Revenue Code, the
32 following apply:

33 (A) All Scholarshare trust accounts of which an
34 individual is a beneficiary shall be treated as one account,
35 except as otherwise provided.

36 (B) All distributions during a taxable year shall be
37 treated as one distribution.

38 (C) The value of the participation agreement, income
39 on the participation agreement, and investment in the



1 participation agreement shall be computed as of the close
2 of the calendar year in which the taxable year begins.

3 (2) A contribution by a for-profit or nonprofit entity
4 for the benefit of an owner or employee of that entity or
5 a beneficiary whom the owner or employee has the
6 power to designate, including the owner or employee's
7 minor children, shall be included in the gross income of
8 that owner or employee in the year the contribution is
9 made.

10 (3) For purposes of this subdivision, "distribution"
11 includes any benefit furnished to a beneficiary under a
12 participation agreement, as provided in Article 19
13 (commencing with Section 69980) of Chapter 2 of Part 42
14 of the Education Code.

15 (4) (A) Paragraph (1) shall not apply to that portion
16 of any distribution that, within 60 days of distribution, is
17 transferred to the credit of another beneficiary under the
18 Scholarshare trust who is a "member of the family," as
19 that term is used in Section 2032A(e)(2) of the Internal
20 Revenue Code, of the former beneficiary of that
21 Scholarshare trust.

22 (B) Any change in the beneficiary of an interest in the
23 Scholarshare trust shall not be treated as a distribution for
24 purposes of paragraph (1) if the new beneficiary is a
25 "member of the family," as that term is used in Section
26 2032A(e)(2) of the Internal Revenue Code, of the former
27 beneficiary of that Scholarshare trust.

28 (d) For purposes of determining adjusted gross
29 income, Section 62(a)(9) of the Internal Revenue Code
30 shall not apply to any amount forfeited upon distribution
31 of an account created pursuant to a participation
32 agreement.

33 (e) The amendments made to the Internal Revenue
34 Code by Section 211 of the Taxpayer Relief Act of 1997
35 (P.L. 105-34) shall apply to taxable years beginning on or
36 after January 1, 1998.

37 SEC. 4. Section 17204 is added to the Revenue and
38 Taxation Code, to read:

39 17204. Section 221 as added to the Internal Revenue
40 Code by Section 202 of the Taxpayer Relief Act of 1997



1 (P.L. 105-34), relating to interest on education loans, shall
2 apply for taxable years beginning on or after January 1,
3 1998.

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

O

