

AMENDED IN SENATE JUNE 15, 2000

AMENDED IN ASSEMBLY MAY 25, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2871

Introduced by ~~Committee on Budget (Ducheny (Chair), Aroner, Cedillo, Correa, Firebaugh, Florez, Gallegos, Keeley, Nakano, Papan, Reyes, Scott, Strom-Martin, Torlakson, Wildman, and Wright)~~ Assembly Member Correa

(Coauthors: Assembly Members Alquist, Bates, Battin, Briggs, Calderon, Cardoza, Cedillo, Corbett, Cox, Cunneen, Davis, Dickerson, Ducheny, Dutra, Gallegos, Granlund, Havice, Hertzberg, Honda, Jackson, Leach, Lempert, Longville, Lowenthal, Machado, Maddox, Margett, Mazzoni, Nakano, Olberg, Robert Pacheco, Rod Pacheco, Pescetti, Reyes, Romero, Scott, Shelley, Steinberg, Strom-Martin, Thomson, Torlakson, Villaraigosa, Washington, Wayne, Wiggins, Wildman, and Zettel)

(Coauthors: Senators Alarcon, Chesbro, Costa, Figueroa, McPherson, Murray, Rainey, Sher, Solis, and Soto)

March 6, 2000

~~An act relating to education.—An act to add and repeal Section 17053.80 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2871, as amended, ~~Committee on Budget~~
~~Correa. Education: budget trailer~~ *Income taxes: credit:*
long-term care.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would, for each taxable year beginning on or after January 1, 2000, and before January 1, 2005, allow a credit in an amount equal to \$500 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

This bill would take effect immediately as a tax levy.

~~The Budget Act of 2000 includes appropriations for the support of elementary and secondary education and community colleges.~~

~~This bill would express the intent of the Legislature to enact legislation to make the necessary statutory changes relative to funding kindergarten and grades 1 to 12, inclusive, to implement the Budget Act of 2000.~~

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. It is the intent of the Legislature to enact~~
2 ~~legislation to make the necessary statutory changes~~
3 ~~relative to funding kindergarten and grades 1 to 12,~~
4 ~~inclusive, to implement the Budget Act of 2000.~~

5 *SECTION 1. Section 17053.80 is added to the Revenue*
6 *and Taxation Code, to read:*

7 *17053.80. (a) For each taxable year beginning on or*
8 *after January 1, 2000, and before January 1, 2005, there*
9 *shall be allowed as a credit against the "net tax," as*
10 *defined in Section 17039, an amount equal to five*
11 *hundred dollars (\$500) multiplied by the number of*
12 *applicable individuals with respect to whom the taxpayer*
13 *is an eligible caregiver for the taxable year.*

14 *(b) (1) (A) "Applicable individual" means, with*
15 *respect to any taxable year, any individual who has been*
16 *certified, before the due date for filing the return of tax*



1 for the taxable year (without extensions), by a physician
2 (as defined in section 1861(r)(1) of the Social Security
3 Act) as being an individual with long-term care needs
4 described in subparagraph (B) for a period--

5 (i) which is at least 180 consecutive days, and

6 (ii) a portion of which occurs within the taxable year.

7 That term shall not include any individual otherwise
8 meeting the requirements of the preceding sentence
9 unless within the 39¹/₂ month period ending on that due
10 date (or such other period as the Franchise Tax Board
11 prescribes) a physician (as so defined) has certified that
12 that individual meets those requirements.

13 (B) An individual is described in this subparagraph if
14 the individual meets any of the following requirements:

15 (i) The individual is at least six years of age and--

16 (I) is unable to perform (without substantial assistance
17 from another individual) at least three activities of daily
18 living, as defined in Section 7702B(c)(2)(B) of the
19 Internal Revenue Code, due to a loss of functional
20 capacity, or

21 (II) requires substantial supervision to protect that
22 individual from threats to health and safety due to severe
23 cognitive impairment and is unable to perform at least
24 one activity of daily living, as defined in Section
25 7702B(c)(2)(B) of the Internal Revenue Code, or to the
26 extent provided by the Franchise Tax Board (in
27 consultation with the Secretary of Health and Welfare
28 Agency), is unable to engage in age appropriate
29 activities.

30 (ii) The individual is at least two years of age but less
31 than six years of age and is unable due to a loss of
32 functional capacity to perform (without substantial
33 assistance from another individual) at least two of the
34 following activities: eating, transferring, or mobility.

35 (iii) the individual is under two years of age and
36 requires specific durable medical equipment by reason of
37 a severe health condition or requires a skilled practitioner
38 trained to address the individual's condition to be
39 available if the individual's parents or guardians are
40 absent.



1 (2) (A) A taxpayer shall be treated as an “eligible
2 caregiver” for any taxable year with respect to the
3 following individuals:

4 (i) The taxpayer.

5 (ii) The taxpayer’s spouse.

6 (iii) An individual with respect to whom the taxpayer
7 is allowed a credit under subdivision (d) of Section 17054
8 for the taxable year.

9 (iv) An individual who would be described in clause
10 (iii) for the taxable year if Section 151(c)(1)(A) of the
11 Internal Revenue Code, relating to gross income
12 limitation, were applied by substituting for the federal
13 exemption amount specified in that section, an amount
14 equal to the sum of the federal exemption amount
15 specified in that section, the federal standard deduction
16 under Section 63(c)(2)(C) of the Internal Revenue
17 Code, and any additional federal standard deduction
18 under Section 63(c)(3) of the Internal Revenue Code
19 which would be applicable to the individual if clause (iii)
20 applied.

21 (v) An individual who would be described in clause
22 (iii) for the taxable year if--

23 (I) the requirements of clause (iv) are met with
24 respect to the individual, and

25 (II) the requirements of subparagraph (B) are met
26 with respect to the individual in lieu of the support test
27 of Section 152(a) of the Internal Revenue Code.

28 (B) The requirements of this subparagraph are met if
29 an individual has as his or her principal place of abode the
30 home of the taxpayer, and

31 (i) in the case of an individual who is an ancestor or
32 descendant of the taxpayer or the taxpayer’s spouse, is a
33 member of the taxpayer’s household for over half the
34 taxable year, or

35 (ii) in the case of any other individual, is a member of
36 the taxpayer’s household for the entire taxable year.

37 (C) (i) If more than one individual is an eligible
38 caregiver with respect to the same applicable individual
39 for taxable years ending with or within the same calendar
40 year, a taxpayer shall be treated as the eligible caregiver



1 if each of those individuals (other than the taxpayer) files
2 a written declaration (in the form and manner as the
3 Franchise Tax Board may prescribe) that that individual
4 will not claim that applicable individual for the credit
5 under this section.

6 (ii) If each individual required under clause (i) to file
7 a written declaration under clause (i) does not do so, the
8 individual with the highest federal modified adjusted
9 gross income (as defined in Section 32(c)(5) of the
10 Internal Revenue Code for federal purposes) shall be
11 treated as the eligible caregiver.

12 (iii) In the case of married individuals filing separate
13 returns, the determination under this subparagraph as to
14 whether the husband or wife is the eligible caregiver shall
15 be made under the rules of clause (ii) (whether or not
16 one of them has filed a written declaration under clause
17 (i)).

18 (c) (1) No credit shall be allowed under this section
19 to a taxpayer with respect to any applicable individual
20 unless the taxpayer includes the name and taxpayer
21 identification number of that individual, and the
22 identification number of the physician certifying that
23 individual, on the return of tax for the taxable year.

24 (2) The denial of any credit under subparagraph (1)
25 may be made pursuant to Section 19051.

26 (d) The taxpayer shall retain the physician
27 certification required by subdivision (b) and shall make
28 that certification available to the Franchise Tax Board
29 upon request.

30 (e) No credit shall be allowed under this section for
31 any eligible caregiver whose adjusted gross income for
32 the taxable year is equal to or greater than one hundred
33 thousand dollars (\$100,000) in the case of a married
34 couple filing a joint return, and fifty thousand dollars
35 (\$50,000) in the case of all other individuals.

36 (f) This section shall remain in effect only until
37 December 1, 2005, and as of that date is repealed.



1 *SEC. 2. This act provides for a tax levy within the*
2 *meaning of Article IV of the Constitution and shall go into*
3 *immediate effect.*

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