

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2582

Introduced by Assembly Member Nestande

February 24, 2012

An act to add Sections 17053.83, 23683, and 23684 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 2582, as amended, Nestande. Income taxes: credit: contributions: educational organizations.

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 monetary contributions to an educational improvement organization or to a public school for support of cocurricular activities or to an educational improvement organization that supports innovative programs in public schools, as specified, and would allow a credit against the taxes imposed under the Corporation Tax Law for contributions to an education scholarship-granting organization, as specified.~~

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 17053.83 is added to the Revenue and*
2 *Taxation Code, to read:*

3 17053.83. (a) (1) *There shall be allowed as a credit against*
4 *the “net tax,” as defined in Section 17039, an amount equal to the*
5 *monetary amount contributed during the taxable year by a taxpayer*
6 *to a public school for support of cocurricular activities or to an*
7 *educational improvement organization that supports innovative*
8 *programs in public schools.*

9 (2) *The maximum amount of credit allowed under this section*
10 *per taxable year is as follows:*

11 (A) *Five hundred dollars (\$500) for a person making a separate*
12 *return.*

13 (B) *One thousand dollars (\$1,000) for persons making a joint*
14 *return.*

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

17 (1) *“Cocurricular activities” means activities for students that*
18 *are optional, noncredit educational activities that supplement*
19 *education, including, but not limited to, career and technical*
20 *education, gifted programs, athletics, visual and performing arts,*
21 *classroom enrichment, educational field trips, outdoor education,*
22 *and tutoring. For purposes of this section, “support of cocurricular*
23 *activities” does not include administrative or overhead costs.*

24 (2) *“Educational improvement organization” or “EIO” means*
25 *an organization that meets all of the following:*

26 (A) *Is an organization that is exempt from federal income tax*
27 *as an organization described in Section 501(c)(3) of the Internal*
28 *Revenue Code.*

29 (B) *Is an organization that contributes at least 80 percent of*
30 *the contributions that it receives during a taxable year as grants*
31 *to a public school for innovative programs. Grants may include*
32 *cash payments to public schools to carry on innovative programs*
33 *and may include costs incurred by the EIO in providing innovative*
34 *programs to, or in conjunction with, public schools.*

35 (3) *“Innovative program” means a program that meets all of*
36 *the following:*

1 (A) Is an advanced academic or similar program that is not
2 part of the regular program of a public school, but enhances the
3 curriculum of the public school.

4 (B) Is targeted towards supporting innovative programs in
5 science, technology, engineering, and math (STEM) literacy, and
6 the arts for public schools.

7 (C) Provides creative focus, delivery, including Internet-based
8 and distance learning technologies, methodology, or skill training
9 that is different than the academic program of the school.

10 (4) "Public school" means a public school, including a charter
11 school, that provides instruction in kindergarten and grades 1
12 through 12, inclusive. For purposes of this section, the amount
13 contributed for cocurricular activities must be made directly to
14 the public school or public schools of the taxpayer's choice.

15 (c) 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 four years if
18 necessary, until the credit is exhausted.

19 (d) The total amount of credit allowed under this section and
20 Section 23683 shall not exceed five hundred million dollars
21 (\$500,000,000). However, this amount may increase by 25 percent
22 in any taxable year after 90 percent of the total amount of credit
23 allowed under this subdivision, as adjusted, has been allowed.

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

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

28 SEC. 2. Section 23683 is added to the Revenue and Taxation
29 Code, to read:

30 23683. (a) (1) There shall be allowed as a credit against the
31 "tax," as defined in Section 23036, an amount equal to the
32 monetary amount contributed during the taxable year by a taxpayer
33 to a public school for support of cocurricular activities or to an
34 educational improvement organization that supports innovative
35 programs in public schools.

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

38 (A) Fifty percent of the total tax liability of a taxpayer for the
39 taxable year under this part, before allowance of any credit under

1 this section, not to exceed three hundred thousand dollars
2 (\$300,000).

3 (B) Notwithstanding subparagraph (A), for contributions made
4 after the effective date of this section, up to 75 percent of the total
5 tax liability of a taxpayer for the taxable year under this part,
6 before allowance of any credit under this section, if the amount
7 contributed in the preceding taxable year and current taxable year
8 are at least an amount that is 80 percent of the amount contributed
9 in the taxable year two years prior to the current taxable year, not
10 to exceed three hundred thousand dollars (\$300,000).

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

13 (1) "Cocurricular activities" means activities for students that
14 are optional, noncredit educational activities that supplement
15 education, including, but not limited to, career and technical
16 education, gifted programs, athletics, visual and performing arts,
17 classroom enrichment, educational field trips, outdoor education,
18 and tutoring. For purposes of this section, "support of cocurricular
19 activities" does not include administrative or overhead costs.

20 (2) "Educational improvement organization" or "EIO" means
21 an organization that meets all of the following:

22 (A) Is an organization that is exempt from federal income tax
23 as an organization described in Section 501(c)(3) of the Internal
24 Revenue Code.

25 (B) Is an organization that contributes at least 80 percent of
26 the contributions that it receives during a taxable year as grants
27 to a public school for innovative programs. Grants may include
28 cash payments to public schools to carry on innovative programs
29 and may include costs incurred by the EIO in providing innovative
30 programs to, or in conjunction with, public schools.

31 (3) "Innovative program" means a program that meets all of
32 the following:

33 (A) Is an advanced academic or similar program that is not
34 part of the regular program of a public school, but enhances the
35 curriculum of the public school.

36 (B) Is targeted towards supporting innovative programs in
37 science, technology, engineering, and math (STEM) literacy, and
38 the arts for public schools.

1 (C) Provides creative focus, delivery, including Internet-based
2 and distance learning technologies, methodology, or skill training
3 that is different than the academic program of the school.

4 (4) "Public school" means a public school, including a charter
5 school, that provides instruction in kindergarten and grades 1
6 through 12, inclusive. For purposes of this section, the amount
7 contributed for cocurricular activities must be made directly to
8 the public school or public schools of the taxpayer's choice.

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

13 (d) The total amount of credit allowed under this section and
14 Section 17053.83 shall not exceed five hundred million dollars
15 (\$500,000,000). However, this amount may increase by 25 percent
16 in any taxable year after 90 percent of the total amount of credit
17 allowed under this subdivision, as adjusted, has been allowed.

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

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

22 SEC. 3. Section 23684 is added to the Revenue and Taxation
23 Code, to read:

24 23684. (a) (1) There shall be allowed as a credit against the
25 "tax," as defined in Section 23036, an amount equal to the
26 monetary amount contributed during the taxable year by a taxpayer
27 to an education scholarship granting organization that provides
28 qualified tuition assistance to qualified students from moderate-
29 to low-income families who attend a qualified school.

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

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

36 (B) Notwithstanding subparagraph (A), for contributions made
37 after the effective date of this section, 75 percent of the total tax
38 liability of a taxpayer for the taxable year under this part, before
39 allowance of any credit under this section, if the amount
40 contributed in the preceding taxable year and current taxable year

1 are at least an amount that is 80 percent of the amount contributed
2 in the taxable year two years prior to the current taxable year, not
3 to exceed three hundred thousand dollars (\$300,000).

4 (c) For purposes of this section, the following definitions shall
5 apply:

6 (1) “Education scholarship granting organization” or “SGO”
7 means an organization that meets all of the following conditions:

8 (A) Is an organization that is exempt from federal income tax
9 as an organization described in Section 501(c)(3) of the Internal
10 Revenue Code.

11 (B) Uses at least 97 percent of amounts contributed during the
12 taxable year for education scholarships, or 100 percent of amounts
13 contributed during the taxable year for education scholarships if
14 the organization has less than three years of audits.

15 (C) Makes scholarships available for more than one school.

16 (D) Submits to the state the following:

17 (i) A financial and compliance audit performed by a certified
18 public accountant.

19 (ii) Quarterly reports on the number of scholarships to recipients
20 and the participating schools.

21 (2) “Qualified school” means a school that meets all of the
22 following:

23 (A) Is accredited.

24 (B) Complies with the Health and Safety Code.

25 (C) Complies with federal nondiscrimination requirements.

26 (D) Requires teachers and other school personnel to have a
27 background check.

28 (E) Requires scholarship students to take a nationally recognized
29 norm-referenced test or the state public school assessment.

30 (F) Posts standardized test scores.

31 (G) Provides financial reporting to the state.

32 (H) If the school is in operation for less than three years, obtains
33 a surety bond or letter of credit in an amount equal to the value
34 of the scholarship payments for one quarter.

35 (3) “Qualified student” means an individual who meets all of
36 the following conditions:

37 (A) Family income does not exceed 300 percent of federal
38 poverty guidelines.

39 (B) Attended public school in the preceding school year or is
40 entering kindergarten or first grade.

1 (C) Is in kindergarten or in grades 1 to 12, inclusive.

2 (D) “Qualified tuition” means that amount that is 65 percent
3 of the basic state per pupil funding, or selected school’s tuition
4 and fees, whichever is less.

5 (d) The total amount of credit allowed under this section shall
6 not exceed five hundred million dollars (\$500,000,000). However,
7 this amount may increase by 25 percent in any taxable year after
8 90 percent of the total amount of credit allowed under this
9 subdivision, as adjusted, has been allowed.

10 (e) The Franchise Tax Board shall promulgate rules and
11 regulations as necessary or appropriated to implement this section.

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

14 SECTION 1. ~~(a) It is the intent of the Legislature to enact~~
15 ~~legislation that would allow a credit against the taxes imposed~~
16 ~~under the Personal Income Tax Law for monetary contributions~~
17 ~~to a public school for support of cocurricular activities or to an~~
18 ~~educational improvement organization (EIO) to support innovative~~
19 ~~programs in science, technology, engineering, and math (STEM);~~
20 ~~literacy, and arts for kindergarten and grades 1 through 12;~~
21 ~~inclusive.~~

22 (b) ~~It is also the intent of the Legislature to enact legislation that~~
23 ~~would allow a credit against the taxes imposed under the~~
24 ~~Corporation Tax Law for contributions to an education~~
25 ~~scholarship-granting organization (SGO) that provides tuition~~
26 ~~assistance to students in kindergarten and grades 1 through 12;~~
27 ~~inclusive, from moderate- to low- income families.~~