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:

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

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

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

(A) Five hundred dollars ($500) for a person making a separate return.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "Education scholarship granting organization" or "SGO" means an organization that meets all of the following conditions:

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

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

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

(D) Submits to the state the following:

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

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

(2) "Qualified school" means a school that meets all of the following:

(A) Is accredited.

(B) Complies with the Health and Safety Code.

(C) Complies with federal nondiscrimination requirements.

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

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

(F) Posts standardized test scores.

(G) Provides financial reporting to the state.

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

(3) "Qualified student" means an individual who meets all of the following conditions:

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

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

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

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

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

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

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

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

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

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