AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL No. 1542

Introduced by Senator Negrete McLeod

February 24, 2012

An act to add Sections 17053.82 and 23682 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, as amended, Negrete McLeod. Income taxes: credit: contributions to LEAP.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against the taxes imposed under the Personal Income Tax Law and the Corporation Tax Law for monetary contributions to a Local Educational Advancement Program (LEAP) organization that provides fee assistance for students in kindergarten and grades 1 to 12, inclusive, from families with demonstrated financial needs, to receive academic services before or after regular school hours, on weekends, or in the summer, as provided.

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:

SECTION 1. Section 17053.82 is added to the Revenue and Taxation Code, to read:

17053.82. (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 local educational advancement program organization that provides fee assistance to qualified students to receive academic services outside of the regular ~~school day~~ *schoolday*.

(2) The maximum amount of credit allowed under this section per taxable year is five hundred dollars ($500) or one thousand dollars ($1,000) for persons making a joint return.

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

(1) "Academic services" includes, but is not limited to, afterschool programs or summer and vacation school programs at public or accredited private schools, tutoring, diagnostic evaluations, college and career preparation, and online learning that are provided outside of the regular ~~school day~~ *schoolday*. Academic services may be provided by a public or private entity, including, but not limited to, a public school, private school, school district, school foundation, county office of education, educational service agency, institution of higher education, faith-based organization, community-based organization, or private business, including a sole proprietor.

(2) "Fee assistance" means financial assistance to cover partial or full payment of fees associated with the general cost of academic services, including transportation costs, that is granted on a needs-based, ability to pay, formula demonstrated by household income or extenuating circumstances, or both.

(3) "Local educational advancement program organization" 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, or a government entity, including, but not limited to, a school district, school foundation, county office of education, educational service agency, institution of higher education, faith-based organization, or community-based organization.

(B) Uses at least 97 percent of the monetary contributions that it receives for fee assistance.

(C) Makes fee assistance available for students from more than one school.

(4) "Outside the regular ~~school day"~~ *schoolday"* means the time before or after regular school hours, on weekends, or in the summer.

(5) "Public school" means a school, including a charter school, that provides instruction in kindergarten and grades 1 to 12, inclusive, established by the Legislature, or by municipal or district authority.

(6) "Qualified students" means students in kindergarten and grades 1 to 12, inclusive, from families with demonstrated financial needs, enrolled at a public school, accredited private school, or home school.

(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 shall not exceed one hundred million dollars ($100,000,000). However, this amount may increase by 25 percent in any taxable year after 90 percent of the total amount of credit allowed under this section, 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 23682 is added to the Revenue and Taxation Code, to read:

23682. (a) (1) *(A)* There shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to *50 percent of* the monetary amount contributed during the taxable year by a taxpayer to a local educational advancement program organization that provides fee assistance to qualified students to receive academic services outside of the regular ~~school day~~ *schoolday*.

(B) Notwithstanding subparagraph (A), there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to 75 percent of the monetary amount contributed during the taxable year by a taxpayer to a local educational advancement program organization that provides fee assistance to qualified students to receive academic services outside of the regular schoolday, if both of the following conditions are met:

(i) The taxpayer certifies that in each of the following two succeeding taxable years, that the taxpayer will contribute an amount that is at least 80 percent of the amount contributed in the current taxable year. The certification shall be made in a form and manner determined by the Franchise Tax Board.

(ii) This subparagraph shall only apply to contributions that are made in one consecutive three-taxable-year period.

(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), 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 following are met:

(i) The taxpayer certifies that in each of the following two succeeding taxable years, that the taxpayer will contribute an amount that is at least 80 percent of the amount contributed in the current taxable year. The certification shall be made in a form and manner determined by the Franchise Tax Board.

(ii) The amount of credit allowed to a taxpayer under this subparagraph shall not exceed three hundred thousand dollars ($300,000) each taxable year.

(iii) This subparagraph shall only apply to contributions that are made in one consecutive ~~three-taxable year~~ *three-taxable-year* period.

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

(1) "Academic services" includes, but is not limited to, afterschool programs or summer and vacation school programs at public or accredited private schools, tutoring, diagnostic evaluations, college and career preparation, and online learning that are provided outside of the regular ~~school day~~ *schoolday*. Academic services may be provided by a public or private entity, including, but not limited to, a public school, private school, school district, school foundation, county office of education, educational service agency, institution of higher education, faith-based organization, community-based organization, or private business, including a sole proprietor.

(2) “Fee assistance” means financial assistance to cover partial or full payment of fees associated with the general cost of academic services, including transportation costs, that is granted on a needs-based, ability to pay, formula demonstrated by household income or extenuating circumstances, or both.

(3) “Local educational advancement program organization” 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, or a government entity, including, but not limited to, a school district, school foundation, county office of education, educational service agency, institution of higher education, faith-based organization, or community-based organization.

(B) Uses at least 97 percent of the monetary contributions that it receives for fee assistance.

(C) Makes fee assistance available for students from more than one school.

(4) “Outside the regular ~~school day”~~ *schoolday”* means the time before or after regular school hours, on weekends, or in the summer.

(5) “Public school” means a school, including a charter school, that provides instruction in kindergarten and grades 1 to 12, inclusive, established by the Legislature, or by municipal or district authority.

(6) “Qualified students” means students in kindergarten and grades 1 to 12, inclusive, from families with demonstrated financial needs, enrolled at a public school, accredited private school, or home school.

(c) Any credits used that were allowed pursuant to ~~subparagraph (B) of paragraph (2) of~~ subdivision (a) where a recapture event occurs shall be included in the income in the taxable year in which the recapture event occurred. For purposes of this subdivision, a “recapture event” occurs *for purposes of subparagraph (B) of paragraph (1) of subdivision (a)* when the taxpayer fails to contribute an amount as certified in *clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) and occurs for purposes of subparagraph (B)of paragraph (2) of subdivision (a)when the taxpayer fails to contribute an amount as certified in* clause (i) of subparagraph (B) of paragraph (2) of subdivision (a).

(d) The total amount of credit allowed under this section shall not exceed two hundred million dollars ($200,000,000). However, this amount may increase by 25 percent in any taxable year after 90 percent of the total amount of credit allowed under this section, as adjusted, has been allowed.

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

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

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