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SB-539 Cal Grants: taxes: credits: College Access Tax Credit. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 539

Introduced by Senators De León and Portantino

February 16, 2017

An act to add Section 69431.8 to the Education Code, and to amend Sections 12207, 17053.87, and 23687 of the Revenue and Taxation Code, relating to education finance, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 539, De León. Cal Grants: taxes: credits: College Access Tax Credit.

Existing insurance tax law, the Personal Income Tax Law, and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit for taxable years beginning on or after January 1, 2017, and before January 1, 2023, equal to 50% of a contribution to the College Access Tax Credit Fund, a special fund in the State Treasury, as allocated and certified by the California Educational Facilities Authority. Those laws limit the aggregate amount of credit that is authorized to be allocated and certified to \$500,000,000.

This bill would increase the credit percentage on the contribution amount from 50% to 75% for taxable years beginning on or after January 1, 2018. The bill would also increase the limit on the aggregate credit amount to \$1,000,000,000 for the 2018 calendar year and each calendar year thereafter.

Under existing law, after specified transfers to the General Fund and any reimbursement for administrative costs are made, any remaining moneys in the College Access Tax Credit Fund are continuously appropriated to the Student Aid Commission for

purposes of supplementing awards made for access costs, defined as living expenses and expenses for transportation, supplies, and books, under the Cal Grant Program. Existing law provides that Cal Grant Program awards include "Cal Grant A Entitlement Awards," "Cal Grant B Entitlement Awards," "California Community College Transfer Entitlement Awards," "Competitive Cal Grant A and B Awards," "Cal Grant C Awards," and "Cal Grant T Awards." These Cal Grant Program awards may be used for, among other things, tuition or student fees.

This bill would instead provide, upon appropriation by the Legislature, that the remaining revenues from contributions to the College Access Tax Credit Fund made on and after January 1, 2019, be allocated to the Student Aid Commission to make annual disbursements to make Cal Grant Program awards. If contributions to the College Access Tax Credit Fund exceed \$10,000,000 in a calendar year, this bill would require 15% of the moneys allocated to the commission to be allocated to supplement awards for access costs, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 69431.8 is added to the Education Code, to read:

69431.8. (a) As used in this section, "fund" means the College Access Tax Credit Fund created by Section 17053.87 of the Revenue and Taxation Code.

(b) Upon appropriation by the Legislature, any moneys allocated to the commission from the fund shall be available for the purposes of making awards to students in accordance with subdivision (c).

(c) (1) The commission shall make annual disbursements from the moneys allocated from the fund to make Cal Grant Program awards as described in subdivision (a) of Section 69432.

(2) Notwithstanding paragraph (1), if contributions to the fund in the calendar year exceed ten million dollars (\$10,000,000), the moneys allocated from the fund shall be allocated to make annual disbursements as follows:

(A) Eighty-five percent to make Cal Grant Program awards as described in subdivision (a) of Section 69432.

(B) Fifteen percent to supplement awards for access costs as described in paragraph (2) of subdivision (c) of Section 69431.7.

(d) If, after making supplemental awards pursuant to subparagraph (B) of paragraph (2) of subdivision (c) moneys remain in the fund, those moneys shall remain in the fund for allocation for those purposes in future fiscal years.

SEC. 2. Section 12207 of the Revenue and Taxation Code is amended to read:

12207. (a) (1) For the taxable years beginning on or after January 1, 2017, and before January 1, 2023, there shall be allowed as a credit against the "tax," as described in Section 12202 or 12231, an amount equal to the percentage specified in paragraph (2) of the amount contributed by the taxpayer for the taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(2) (A) For taxable years beginning before January 1, 2018, 50 percent.

(B) For taxable years beginning on or after January 1, 2018, 75 percent.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section, Section 17053.87, and Section 23687 shall be an amount equal to one billion dollars (\$1,000,000,000) for the 2018 calendar year and each calendar year thereafter.

(2) (A) For the purposes of this section, the California Educational Facilities Authority shall do all of the following:

(i) On a first-come-first-served basis, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Department of Insurance a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary or appropriate to implement this paragraph.

(ii) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(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 succeeding five years if necessary, until the credit is exhausted.

(d) The tax credit allowed by subdivision (a), subdivision (a) of Section 17053.87, and subdivision (a) of Section 23687 for donations to the College Access Tax Credit Fund shall be known as the College Access Tax Credit.

(e) This section shall remain in effect only until December 1, 2023, and as of that date is repealed.

SEC. 3. Section 17053.87 of the Revenue and Taxation Code is amended to read:

17053.87. (a) (1) For the taxable years beginning on or after January 1, 2017, and before January 1, 2023, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the percentage specified in paragraph (2) of the amount contributed by the taxpayer for the taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(2) (A) For taxable years beginning before January 1, 2018, 50 percent.

(B) For taxable years beginning on or after January 1, 2018, 75 percent.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section, Section 12207, and Section 23687 shall be an amount equal to one billion dollars (\$1,000,000,000) for the 2018 calendar year and each calendar year thereafter.

(2) (A) For the purposes of this section, the California Educational Facilities Authority shall do all of the following:

(i) On a first-come-first-served basis, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary or appropriate to implement this paragraph.

(ii) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(c) (1) 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 succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) (1) The College Access Tax Credit Fund is hereby created as a special fund in the State Treasury. All revenue in this special fund shall be allocated as follows:

(A) First, to the General Fund in an amount equal to the aggregate amount of certified credits allowed pursuant to this section and Section 23687 for the taxable year. Funds allocated to the General Fund shall be considered General Fund revenues for purposes of Sections 8 and 8.5 of Article XVI of the California Constitution.

(B) Second, upon appropriation, to the Department of Insurance, the Franchise Tax Board, the California Educational Facilities Authority, the Controller, and the Student Aid Commission for reimbursement of all administrative costs incurred by those agencies in connection with their duties under this section, Section 12207, Section 23687, and Sections 69431.7 and 69431.8 of the Education Code.

(C) Third, notwithstanding Section 13340 of the Government Code, the remaining revenue from contributions to the College Access Tax Credit Fund made before January 1, 2019, shall be continuously appropriated to the Student Aid Commission for purposes of awarding Cal Grants to students subject to Section 69431.7 of the Education Code.

(D) Fourth, upon appropriation by the Legislature, the remaining revenues from contributions to the College Access Tax Credit Fund made on and after January 1, 2019, to the Student Aid Commission for the purposes of awarding Cal Grants to students pursuant to Section 69431.8 of the Education Code.

(2) The tax credit allowed by subdivision (a), subdivision (a) of Section 12207, and subdivision (a) of Section 23687 for donations to the College Access Tax Credit Fund shall be known as the College Access Tax Credit.

(e) This section shall remain in effect only until December 1, 2023, and as of that date is repealed.

SEC. 4. Section 23687 of the Revenue and Taxation Code is amended to read:

23687. (a) (1) For taxable years beginning on or after January 1, 2017, and before January 1, 2023, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the percentage specified in paragraph (2) of the amount contributed by the taxpayer for the taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(2) (A) For taxable years beginning before January 1, 2018, 50 percent.

(B) For taxable years beginning on or after January 1, 2018, 75 percent.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section, Section 12207, and Section 17053.87 shall be an amount equal to one billion dollars (\$1,000,000,000) for the 2018 calendar year and each calendar year thereafter.

(2) (A) For the purposes of this section, the California Educational Facilities Authority shall do all of the following:

(i) On a first-come-first-served basis, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary or appropriate to implement this paragraph.

(ii) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(c) (1) 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 succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) The tax credit allowed by subdivision (a), subdivision (a) of Section 12207, and subdivision (a) of Section 17053.87 for donations to the College Access Tax Credit Fund shall be known as the College Access Tax Credit.

(e) This section shall remain in effect only until December 1, 2023, and as of that date is repealed.

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