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AB-2880 Taxation: credits: College Access Tax Credit. (2021-2022)

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Assembly Bill No. 2880

CHAPTER 976

An act to amend Section 69431.7 of the Education Code, and to amend Sections 12207, 17053.87, and 23687 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2880, Mia Bonta. Taxation: credits: College Access Tax Credit.

The law governing the taxation of insurers, 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, which is established as a special fund to receive the contributions for which the credit is given. Those laws specify that the moneys in the College Access Tax Credit Fund shall be allocated first to the General Fund, then, upon appropriation, to specified agencies for administrative costs related to this credit, and lastly continuously appropriated to the Student Aid Commission (commission) for awarding Cal Grants, and requires the commission, to the extent feasible, to make annual disbursements from the moneys allocated to the commission, as provided.

This bill would extend the operation of the credit to taxable years beginning before January 1, 2028. By extending the operation of the credit and thus the appropriation in those provisions, the bill would make an appropriation. The bill would authorize the commission to make disbursements in any year in which it determines there are sufficient funds and, if the commission determines it is in the best interest of the program, the bill would authorize the commission to roll over moneys allocated to the commission for disbursement in future fiscal years.

The bill would also allocate a portion of the moneys in the College Access Tax Credit Fund, upon appropriation by the Legislature, to the California Educational Facilities Authority for outreach purposes to inform taxpayers about the College Access Tax Credit Fund and specified tax credits allowed.

Existing law requires any bill extending an existing tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would provide findings to comply with the additional information requirement for any bill extending an existing tax expenditure.

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

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

SECTION 1. Section 69431.7 of the Education Code is amended to read:

69431.7. (a) As used in this section, "fund" means the College Access Tax Credit Fund created by Sections 17053.86 and 17053.87 of the Revenue and Taxation Code.

(b) Any moneys allocated to the commission from the fund for purposes of this section shall be in addition to, and are intended to supplement, other moneys appropriated for the Cal Grant Program. Upon the creation of the fund, and during its existence, the amount of the Cal Grant B access award as established in the annual Budget Act shall not be adjusted below the amount set forth in the Budget Act of 2012.

(c) (1) The moneys allocated to the commission pursuant to Sections 17053.86 and 17053.87 of the Revenue and Taxation Code shall be available for the purpose of making awards to students in accordance with this section.

(2) The commission shall make disbursements from the moneys allocated to the commission to supplement awards made for access costs under Article 3 (commencing with Section 69435), Article 4 (commencing with Section 69436), and Article 5 (commencing with Section 69437). The amount of the supplemental award, when added to the amount of the award made for access costs established by the annual Budget Act, shall not exceed five thousand dollars (\$5,000). An award under this section is payable only to the extent that moneys are available from the fund. The commission shall inform each recipient of an award under this section that the award is for one academic year only, is not an entitlement, and that future supplemental awards are subject to the availability of moneys in the fund.

(3) The commission may make disbursements in any fiscal year in which it determines there are sufficient funds. If the commission determines it would be in the best interest of the program, the commission may roll over moneys allocated to the commission for disbursement in future fiscal years.

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

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

12207. (a) For the taxable years beginning on or after January 1, 2017, and before January 1, 2028, there shall be allowed as a credit against the "tax," as described in Section 12202 or 12231, an amount equal to 50 percent 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.

(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 five hundred million dollars (\$500,000,000).

(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, 2028, 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) For the taxable years beginning on or after January 1, 2017, and before January 1, 2028, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 50 percent 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.

(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 five hundred million dollars (\$500,000,000).

(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 Section 69431.7 of the Education Code.

(C) Third, upon appropriation, to the California Educational Facilities Authority for outreach purposes to inform taxpayers about the College Access Tax Credit Fund and the credits allowed by this section, Section 12207, and Section 23687.

(D) Fourth, notwithstanding Section 13340 of the Government Code, the remaining revenue 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.

(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, 2028, and as of that date is repealed.

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

23687. (a) For taxable years beginning on or after January 1, 2017, and before January 1, 2028, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to 50 percent 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.

(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 five hundred million dollars (\$500,000,000).

(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, 2028, and as of that date is repealed.

SEC. 5. (a) For purposes of complying with Section 41 of the Revenue and Taxation Code, the Legislature finds and declares that the goal, purpose, and objective of the tax credits extended by Sections 2, 3, and 4 of this bill is to encourage increased private sector support of the Cal Grant Program (Chapter 1.7 (commencing with Section 69430) of Part 42 of Division 5 of Title 3 of the Education Code).

(b) The performance indicators that the Legislature shall use to determine if the tax credits extended by this bill are achieving this goal are the number of taxpayers allowed the credits, and the total dollar value of credits allowed.

(c) The Franchise Tax Board shall provide an annual report to the Legislature in compliance with Section 9795 of the Government Code on the following:

(1) The number of taxpayers allowed tax credits pursuant to Section 12207, 17053.87, or 23687 of the Revenue and Taxation Code.

(2) The total dollar value of tax credits allowed pursuant to Section 12207, 17053.87, and 23687 of the Revenue and Taxation Code.

(d) The disclosure provisions of subdivision (c) shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.