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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1501

Introduced by Assembly Member John A. Pérez
(Coauthors: Assembly Members Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bonilla, Bradford, Brownley, Buchanan, Butler, Charles Calderon, Campos, Carter, Cedillo, Chesbro, Davis, Dickinson, Eng, Feuer, Fletcher, Fuentes, Furutani, Fong, Galgiani, Gatto, Gordon, Hall, Hayashi, Roger Hernández, Hill, Huber, Hueso, Huffman, Lara, Bonnie Lowenthal, Ma, Mitchell, Monning, Pan, Perea, V. Manuel Pérez, Portantino, Skinner, Solorio, Swanson, Torres, Wieckowski, Williams, and Yamada)
(Coauthors: Senators Alquist, Corbett, De León, DeSaulnier, Evans, Hancock, Lowenthal, Pavley, Price, and Yee)

January 10, 2012

An act to add Article 22 (commencing with Section 70020) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, *and to amend Section 19611 of, and to add Section 17060 to, the Revenue and Taxation Code*, relating to student financial aid, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1501, as amended, John A. Pérez. Student financial aid: Middle Class Scholarship Program.

(1) Existing law provides for a public postsecondary education system in this state. This system consists of the University of California, the California State University, and the California Community Colleges. Existing law authorizes these institutions to require that mandatory systemwide fees, among other fees, be paid by students at these institutions.

This bill would establish the Middle Class Scholarship Program under the administration of the Student Aid Commission. The bill would provide that, commencing with the 2012–13 ~~academic~~ *fiscal* year, undergraduate students enrolled at the University of California or the California State University would receive a scholarship *grant award credit* that, combined with other publicly funded student financial aid, as defined, received by an eligible student, would be 60% of the amount charged that student for mandatory systemwide fees in that ~~academic~~ *fiscal* year if the student meets the following conditions: annual household income does not exceed \$150,000; is a resident of this state or exempt from paying nonresident tuition; files specified financial aid forms; ~~and~~ makes timely application or applications for publicly funded student financial aid, as defined, for which he or she is eligible; *and meets prescribed eligibility requirements of the Cal Grant Program, except as specified, and attains at least a 2.0 high school or community college grade point average.*

The bill would provide that a student whose annual household income exceeds \$150,000, and who otherwise meets the requirements, would receive a scholarship *grant award credit* that is reduced in accordance with prescribed calculations.

The bill would require, in order for students enrolled in their respective segments to remain eligible to receive financial aid under the bill, the University of California and the California State University to maintain their respective institutional need-based grant programs at a level that, at a minimum, is equivalent to the level maintained during the 2011–12 ~~academic~~ *fiscal* year.

The bill would continuously appropriate from the ~~Middle Class Scholarship General Fund to the Student Aid Commission~~ as follows: ~~first~~, \$150,000,000 to the Chancellor of the California Community Colleges for allocation to community college districts based on

calculations of full-time equivalent credit, to be expended, after consultation with student representatives as specified, for the provision of scholarship grants to students to reduce the impact of enrollment fees or to help cover the cost of textbooks and other educational expenses; an amount determined by the Student Aid Commission to be sufficient, when combined with publicly funded student financial aid received by eligible students from other sources, to cover the cost of 60% of the amount of mandatory systemwide fees charged to resident students and students who are exempt from nonresident tuition in the 2012–13 academic year and subsequent academic years, to be allocated to the Regents of the University of California and the Trustees of the California State University for implementation of this bill; and \$100,000,000 each to the University of California and the California State University for maintaining access to those segments in the 2012–13 academic year. *The bill would require the Student Aid Commission to report the amount of the scholarship grant award credit for each student to the Franchise Tax Board, and to report the aggregate amount of scholarship grant award credits to the Department of Finance.*

The bill would authorize the Student Aid Commission, in the event that, in any academic year, there are funds remaining in the Middle Class Scholarship Fund after funds have been allocated to all eligible students of the respective universities, to hold these funds in a reserve for fiscal uncertainties. The bill would authorize the Student Aid Commission to determine if sufficient funding is available for purposes of the bill in the 2012–13 academic *fiscal* year and subsequent academic *fiscal* years, and would further authorize the commission to reduce scholarships proportionately if it determines that sufficient funding is not available.

(2) *Existing law establishes the continuously appropriated Tax Relief and Refund Account, and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account.*

This bill, for fiscal years beginning with the 2012–13 fiscal year, would authorize an amount equal to a qualified student’s scholarship grant award credit under the Middle Class Scholarship Program, as determined by the Student Aid Commission pursuant to the bill, to be refunded from the Tax Relief and Refund Account, thereby making an appropriation.

(3) This bill would become operative only if AB 1500 of the 2011–12 Regular Session is chaptered and establishes a Middle Class Scholarship Fund.

(3)

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 22 (commencing with Section 70020) is
2 added to Chapter 2 of Part 42 of Division 5 of Title 3 of the
3 Education Code, to read:

4

5 Article 22. Middle Class Scholarship Program

6

7 70020. The Middle Class Scholarship Program is hereby
8 established under the administration of the Student Aid
9 Commission. For purposes of this article, “commission” means
10 the Student Aid Commission.

11 70021. (a) (1) Commencing with the 2012–13 *academic fiscal*
12 year, an undergraduate student enrolled in the California State
13 University or the University of California who meets the
14 requirements of paragraph (2) is eligible for a *scholarship grant*
15 award *credit* as described in paragraph (2).

16 (2) Each *academic fiscal* year, a student shall receive a
17 scholarship grant *award credit* in an amount that, combined with
18 other publicly funded student financial aid received by an eligible
19 student, is 60 percent of the amount charged that student in that
20 *academic fiscal* year for mandatory systemwide fees, if all of the
21 following requirements are met:

22 (A) The student’s annual household income does not exceed
23 one hundred fifty thousand dollars (\$150,000), except as provided
24 in paragraph (3). For purposes of this article, annual household
25 income shall be calculated in a manner that is consistent with the
26 requirements applicable to the
27 Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program
28 (Chapter 1.7 (commencing with Section 69430)) and Section
29 69506.

1 (B) The student is either a resident of the state or is exempt from
2 paying nonresident tuition.

3 (C) The student completes and submits a Free Application for
4 Federal Student Aid (FAFSA) ~~application~~. If the student is not
5 able to complete a FAFSA ~~application~~, the student submits an
6 application determined by the university he or she attends to be
7 equivalent to the FAFSA ~~application~~ for purposes of this article.

8 (D) The student makes a timely application or applications for
9 publicly funded student financial aid from programs for which he
10 or she is eligible, other than the program established by this article.
11 For purposes of this article, “publicly funded student financial aid”
12 shall be defined as the federal Pell Grant Program, the Cal Grant
13 Program, and institutional need-based grants.

14 (E) *The student meets the requirements of subdivisions (a), (b),*
15 *(c), and (d) of Section 69433.9, and attains a high school or*
16 *community college grade point average of at least 2.0 on a*
17 *four-point scale, except that a student who is exempt from*
18 *nonresident tuition under Section 68130.5 shall not be required*
19 *to meet the requirements of subdivision (a) of Section 69433.9.*

20 (3) The scholarship *grant award credit* under this article of a
21 student whose annual household income is greater than one
22 hundred fifty thousand dollars (\$150,000), and who otherwise
23 meets the requirements of paragraph (2), shall be reduced by a
24 percentage, not to exceed 100 percent, that is equal to ~~10 percent~~
25 ~~multiplied by a number equal to the amount by which the student’s~~
26 ~~household annual household income exceeds one hundred fifty~~
27 ~~thousand dollars (\$150,000), divided by the product of one~~
28 ~~thousand dollars (\$1,000) multiplied by the number of students in~~
29 ~~that household receiving a scholarship under this article during~~
30 ~~that academic year the portion of the student’s annual household~~
31 ~~income in excess of one hundred fifty thousand dollars (\$150,000)~~
32 ~~as a percentage of ten thousand dollars (\$10,000) so that no~~
33 ~~scholarship grant award credit shall be provided to a student with~~
34 ~~an annual household income of one hundred sixty thousand dollars~~
35 ~~(\$160,000) or more.~~

36 (b) In order for students enrolled in their respective segments
37 to remain eligible to receive a scholarship *grant award credit* under
38 this article *and Section 17060 of the Revenue and Taxation Code*,
39 the University of California and the California State University
40 shall maintain their respective institutional need-based grant

1 programs at a level that, at a minimum, is equivalent to the level
2 maintained during the 2011–12 ~~academic~~ *fiscal* year.

3 (c) The University of California and the California State
4 University shall report on the implementation of this article as part
5 of the report made pursuant to Section 66021.1. The California
6 Community Colleges shall report on the implementation of this
7 article, including, but not necessarily limited to, the allocation and
8 use of funds by community college districts, as part of the annual
9 report made pursuant to paragraph (2) of subdivision (b) of Section
10 70901.

11 70022. It is the intent of the Legislature that all of the following
12 occur:

13 (a) The program created pursuant to this article shall augment,
14 and not replace, other state-supported financial aid and institutional
15 need-based grant programs and federal grants.

16 (b) That the scholarship *grant award credit* provided to students
17 under this article *and Section 17060 of the Revenue and Taxation*
18 *Code* be increased to accommodate increases in the cost of
19 mandatory systemwide fees charged to students of the University
20 of California and the California State University, respectively, that
21 may occur during and after the 2011–12 ~~academic~~ *fiscal* year.

22 (c) That the University of California and the California State
23 University do not raise mandatory systemwide fees that would
24 decrease the value of a scholarship *grant award credit* under this
25 article *and Section 17060 of the Revenue and Taxation Code*.

26 ~~(d) That the costs of Middle Class Scholarship Program do not~~
27 ~~exceed the funding available in the Middle Class Scholarship Fund~~
28 ~~and that a prudent fund balance exists to protect against fiscal~~
29 ~~uncertainties.~~

30 70023. (a) The following amount is hereby appropriated *from*
31 *the General Fund in accordance with the following*:

32 (1) ~~Each academic~~ *Notwithstanding Section 13340 of the*
33 *Government Code, each fiscal year, from the revenues in the*
34 ~~Middle Class Scholarship Fund established by Section 70025,~~
35 ~~there shall first be set aside one hundred fifty million dollars~~
36 ~~(\$150,000,000); is continuously appropriated, and shall be~~
37 transferred to the Chancellor of the California Community Colleges
38 for allocation, for that ~~academic~~ *fiscal* year, to community college
39 districts based on calculations of full-time equivalent credit
40 weighted by a measure of participants in the enrollment fee waiver

1 program of the Board of Governors of the California Community
2 Colleges established pursuant to Section 76300. Funds annually
3 allocated to a community college district pursuant to this paragraph
4 shall be expended, after the district has consulted with the
5 recognized campus and district student representatives in the
6 determination of how the funds are to be expended, for the
7 provision of grants to students to reduce the impact of enrollment
8 fees, or to help cover the cost of textbooks and other educational
9 expenses. It is the intent of the Legislature that the funds provided
10 under this paragraph meet the specific needs of students at the
11 local district level. The Board of Governors of the California
12 Community Colleges may establish minimum criteria and standards
13 for community colleges to award grants under this paragraph, in
14 consultation with the appropriate statewide student association
15 representatives, to ensure that the intent of the Legislature is met.

16 ~~(2) Notwithstanding Section 13340 of the Government Code,~~
17 ~~each academic year, an amount determined by the commission to~~
18 ~~be sufficient, when combined with Cal Grants, Pell Grants, and~~
19 ~~institutional need-based grants received by eligible students from~~
20 ~~other sources, to cover the cost of 60 percent of the amount of~~
21 ~~mandatory systemwide fees charged to resident students and~~
22 ~~students who are exempt from nonresident tuition in the 2012–13~~
23 ~~academic year and subsequent academic years is hereby~~
24 ~~continuously appropriated from the Middle Class Scholarship Fund~~
25 ~~established by Section 70025 to the commission for allocation to~~
26 ~~the Regents of the University of California and the Trustees of the~~
27 ~~California State University for implementation of this article. The~~
28 ~~University of California and the California State University shall~~
29 ~~provide the commission with any information that is necessary for~~
30 ~~the determination of this amount.~~

31 ~~(3) For the 2012–13 academic year, one hundred million dollars~~
32 ~~(\$100,000,000) to the University of California for the purpose of~~
33 ~~maintaining access to the university.~~

34 ~~(4) For the 2012–13 academic year, one hundred million dollars~~
35 ~~(\$100,000,000) to the California State University for the purpose~~
36 ~~of maintaining access to the university.~~

37 ~~(b) In the event that, in any academic year, there are funds~~
38 ~~remaining in the Middle Class Scholarship Fund after funds have~~
39 ~~been allocated to all eligible students of the respective universities~~
40 ~~pursuant to paragraphs (1) and (2) of subdivision (a), the~~

1 ~~commission shall hold these funds in reserve for fiscal~~
 2 ~~uncertainties.~~

3 (2) *For the 2012–13 fiscal year, the appropriation made*
 4 *pursuant to paragraph (1) shall not be allocated to the Chancellor*
 5 *of the California Community Colleges until May 2013.*

6 (3) *For purposes of making the computations required by*
 7 *Section 8 of Article XVI of the California Constitution, including*
 8 *computation of the state’s minimum funding obligation to school*
 9 *districts and community college districts in subsequent fiscal years,*
 10 *the appropriation made pursuant to paragraph (1) shall be deemed*
 11 *to be “General Fund revenues appropriated for community college*
 12 *districts,” as defined in subdivision (d) of Section 41202, and*
 13 *included within the “total allocations to school districts and*
 14 *community college districts from General Fund proceeds of taxes*
 15 *appropriated pursuant to Article XIII B,” as defined in subdivision*
 16 *(e) of Section 41202, for that fiscal year.*

17 (4) *Each fiscal year, the commission shall report to the*
 18 *Franchise Tax Board the amount of the scholarship grant award*
 19 *credit for each student, as provided in subdivision (d) of Section*
 20 *17060 of the Revenue and Taxation Code. The commission shall*
 21 *also report the aggregate amount of scholarship grant award*
 22 *credits to the Department of Finance. The University of California*
 23 *and the California State University shall provide the commission*
 24 *with any information that is necessary for the administration of*
 25 *the Middle Class Scholarship Program.*

26 (e)

27 (b) (1) ~~For the 2012–13 academic~~ *fiscal year, the commission*
 28 *shall determine if five hundred sixty million dollars (\$560,000,000)*
 29 *is sufficient to cover the costs of the ~~scholarships~~ scholarship grant*
 30 *award credits as ~~defined~~ described in paragraph ~~(2)~~ (4) of*
 31 *subdivision (a) of this section and Section 70021. If five hundred*
 32 *sixty million dollars (\$560,000,000) is not sufficient for this*
 33 *purpose, then the scholarships shall be reduced proportionately by*
 34 *an equal percentage for all recipients of ~~scholarships~~ scholarship*
 35 *grant award credits under this article and Section 17060 of the*
 36 *Revenue and Taxation Code.*

37 (2) (A) *Beginning with the Governor’s Budget proposal for the*
 38 *2013–14 fiscal year, and in the Governor’s Budget for each fiscal*
 39 *year thereafter, the Department of Finance shall include a ~~fund~~*
 40 *condition statement for the Middle Class Scholarship Fund display*

1 of revenues and scholarship grant award credits provided under
2 this article and Section 17060 of the Revenue and Taxation Code
3 for the past, current, and proposed fiscal years prepared in
4 accordance with existing law.

5 (B) ~~The~~ For the 2014–15 fiscal year and each fiscal year
6 thereafter, the commission shall determine, from the information
7 provided pursuant to this subdivision, if sufficient funds will be
8 available to cover the costs of the allocation to the California
9 Community Colleges and the scholarships pursuant to paragraphs
10 (1) and (2), respectively, of subdivision (a) of this section, and
11 Section 70021, for the upcoming fiscal year. If the funds are not
12 sufficient, then the scholarships shall be reduced proportionately
13 by an equal percentage for all recipients of scholarships under this
14 article and Section 17060 of the Revenue and Taxation Code.

15 (C) The purpose of this subdivision is to ensure that the Middle
16 Class Scholarship Program costs do not exceed funding available
17 in the Middle Class Scholarship Fund.

18 SEC. 2. Section 17060 is added to the Revenue and Taxation
19 Code, to read:

20 17060. (a) (1) For fiscal years beginning with the 2012–13
21 fiscal year, there shall be allowed to a qualified student a credit
22 against the “net tax,” as defined in Section 17039, in an amount
23 equal to the qualified student’s scholarship grant award credit
24 determined by the Student Aid Commission pursuant to Section
25 70021 of the Education Code and other applicable provisions of
26 Article 22 (commencing with Section 70020) of Chapter 2 of Part
27 42 of Division 5 of Title 3 of the Education Code.

28 (2) The amount of the scholarship grant award credit determined
29 by the Student Aid Commission under paragraph (1) shall be
30 provided to the qualified student in writing, and that amount shall
31 be paid pursuant to subdivision (c) in lieu of the qualified student
32 claiming the scholarship grant award credit on any return that
33 may be filed under Part 10.2 (commencing with Section 18401)
34 with respect to the income of the qualified student for any taxable
35 year.

36 (b) For purposes of this section, “qualified student” means a
37 student that meets all of the requirements of Section 70021 of the
38 Education Code to be eligible for a credit under this section.

39 (c) The credit allowed under this section shall be payable to the
40 California State University or the University of California, as the

1 case may be, for the benefit of the qualified student, and shall be
2 applied by the California State University or the University of
3 California, as the case may be, to reduce the qualified student's
4 mandatory systemwide fees, within the meaning of Section 70021
5 of the Education Code, for a fiscal year.

6 (d) The Student Aid Commission shall provide the Franchise
7 Tax Board with information for each qualified student regarding
8 the amount of the credit allowed under this section, the student
9 identification information for the qualified student benefitting from
10 the credit, and whether the credit is payable to the Regents of the
11 University of California or the Trustees of the California State
12 University. Based on this information, the Franchise Tax Board
13 shall make payments from the Tax Relief and Refund Account on
14 behalf of the qualified student to either the Regents of the
15 University of California or the Trustees of the California State
16 University, as the case may be.

17 (e) (1) The credit allowed under this section shall be
18 administered by the Student Aid Commission as described in Article
19 22 (commencing with Section 70020) of Chapter 2 of Part 42 of
20 Division 5 of Title 3 of the Education Code, in the manner
21 determined under regulations issued by the Student Aid
22 Commission. The University of California and the California State
23 University shall provide the commission with any information that
24 is necessary for the administration of the Middle Class Scholarship
25 Program.

26 (2) The Student Aid Commission may prescribe rules and
27 regulations necessary to carry out the purposes of this section,
28 including any rules and regulations necessary to establish
29 priorities, procedures, processes, requirements, and rules identified
30 in, or required to implement, this section, including rules relating
31 to the priority of applications received and the allocation of credits
32 in whatever priority is contained in those regulations.

33 (3) The allocation methodology and the amount of scholarship
34 grant award credits determined by the Student Aid Commission
35 may not be reviewed, revised, or adjusted in any administrative
36 or judicial proceeding.

37 (4) The Student Aid Commission may adopt regulations under
38 paragraph (2) as emergency regulations in accordance with
39 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
40 3 of Title 2 of the Government Code. For purposes of the

1 *Administrative Procedure Act, including Section 11349.6 of the*
2 *Government Code, the adoption of those regulations shall be*
3 *deemed to be an emergency and necessary for the immediate*
4 *preservation of the public peace, health and safety, or general*
5 *welfare, notwithstanding subdivision (e) of Section 11346.1 of the*
6 *Government Code. Notwithstanding subdivision (e) of Section*
7 *11346.1 of the Government Code, any regulation adopted pursuant*
8 *to this section shall not remain in effect more than 180 days unless*
9 *the Student Aid Commission complies with all provisions of*
10 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
11 *3 of Title 2 of the Government Code, as required by subdivision*
12 *(e) of Section 11346.1 of the Government Code.*

13 *(f) Except as provided for in subdivision (c), the credit under*
14 *this section shall not be available to offset, reduce, or otherwise*
15 *diminish any debt, liability, or financial obligation owed to the*
16 *state.*

17 *SEC. 3. Section 19611 of the Revenue and Taxation Code is*
18 *amended to read:*

19 19611. (a) The Tax Relief and Refund Account is hereby
20 created in the General Fund. Notwithstanding Section 13340 of
21 the Government Code, all moneys in the Tax Relief and Refund
22 Account are hereby continuously appropriated, without regard to
23 fiscal year, to the Franchise Tax Board for purposes of making all
24 payments as provided in this section.

25 (b) Notwithstanding any other ~~provision~~ of law, all payments
26 required to be made to taxpayers or other persons from the Personal
27 Income Tax Fund shall be paid from the Tax Relief and Refund
28 Account.

29 (c) The Controller shall transfer, as needed, to the Tax Relief
30 and Refund Account:

31 (1) From the unexpended balance of the annual Budget Act
32 appropriation for Item 9100-101-001, Schedule 80-Renter's Tax
33 Relief, an amount determined by the Franchise Tax Board to be
34 equivalent to the total amount of renters' assistance credits and
35 refunds allowed under Section 17053.5.

36 (A) If there is no unexpended balance of the appropriation, as
37 provided for in paragraph (1), the Controller shall transfer sufficient
38 moneys from the Personal Income Tax Fund to make the renters'
39 assistance credits and refunds until there is an unexpended balance.

1 (B) Subsequent to there being no unexpended balance of the
2 appropriation, as provided for in paragraph (1), and there being a
3 transfer of moneys from the Personal Income Tax Fund to make
4 the renters' assistance credits and refunds, reimbursement shall be
5 made from the unexpended balance of the appropriation as provided
6 for in paragraph (1) to the Personal Income Tax Fund. However,
7 if no such appropriation is subsequently made, reimbursement
8 shall be made from the General Fund.

9 (2) From the disability fund, the amount transferable to the
10 General Fund pursuant to subdivision (a) of Section 1176.5 of the
11 Unemployment Insurance Code.

12 (3) From the Personal Income Tax Fund, such additional
13 amounts as determined by the Franchise Tax Board to be necessary
14 to make the payments required under this section *and Section*
15 *17060*.

16 ~~SEC. 2:~~

17 ~~SEC. 4.~~ This act shall become operative only if Assembly Bill
18 1500 of the 2011–12 Regular Session is chaptered ~~and establishes~~
19 ~~a Middle-Class Scholarship Fund.~~

20 ~~SEC. 3:~~

21 ~~SEC. 5.~~ This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to provide urgently needed financial aid to California
26 public postsecondary students in time for the beginning of the
27 2012–13 ~~academic~~ fiscal year, it is necessary that this act take
28 effect immediately.