Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Murray	Analyst:	LuAnna Hass	Bill Number:	SB 121
Related Bills:	See Legislative History	Telephone:	845-7478	Introduced Date:	01-24-2001
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Internet Service Provider, Internet Access & PC Credit/FTB Report To Legislature Regarding Credit

SUMMARY

This bill would provide an Internet service provider (ISP) a credit of $200 for each low-income household the ISP provides the following without charge: a personal computer, an Internet connection, and at least one year of Internet access.

The bill also would require the department to provide a report on this credit to a legislative committee as specified.

PURPOSE OF THE BILL

This bill contains intent language indicating that the purpose is to provide low-income households with access to the Internet's information resources.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2001, and before January 1, 2007.

POSITION

Pending.

Summary of Suggested Amendments

Amendments 2 and 11 would resolve the departments implementation concern regarding the verification of the credit. Amendments 3, 4, 12, and 13 would resolve the departments implementation concerns regarding the definition of certain terms. Amendments also are provided to renumber the subdivisions and correct various typographical errors.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state law provides various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits).

Board Position:			Department Director	Date
____ S	____ NA	____ NP	Gerald H. Goldberg	02/20/01
____ SA	____ O	____ NAR		
____ N	____ OUA	__X__ PENDING		

These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. Current federal and state laws do not allow a credit for providing Internet connections and Internet access devices.

Under the state Public Utilities Code (PUC), lifeline telephone service is a discounted residential telephone service available to those subscribers who, among other requirements, meet the following total household gross income requirements for 2001:

Number of People	Maximum Annual Gross Income
1-2	$18,200
3	$21,500
4	$25,800
Each additional person	add $ 4,300

THIS BILL

This bill would allow a credit to any taxpayer that is an ISP that provides, without charge, to a low-income household each of the following: a personal computer, an Internet connection, and at least one year of unlimited Internet access. The credit would be $200 for each low-income household that the taxpayer provided these items. The credit would only be allowed for the first year the items are provided. Any unused credit may be carried over for ten years.

This bill defines several terms that are used for purposes of administering this credit:

- "Low-income household" is defined as: (1) a household that meets the same income standards currently in law for lifeline telephone service (as defined in the Public Utilities Code); and (2) has at least one child enrolled in public school in grades K to 12, inclusive.

- “Internet access” is defined as the transmission (dial-up account), computer processing, and storage of information enabling the user to make use of resources on the Internet. This access does not include the telephone line or service to the low-income household.

- “Personal computer” is defined as a fully operational multimedia computer that, at a minimum, is equipped with performance standards, software, and other features as specified in the bill.

This bill would require the taxpayer to maintain adequate records to substantiate the number of low-income households for which the taxpayer claimed a credit.

The bill also would require the department to report, upon request, to a legislative committee specific information about this credit. The information would include: the total amount of credit claimed; the number, type, and income level of taxpayers; and the industry classification of any corporate taxpayers claiming the credit.

IMPLEMENTATION CONSIDERATIONS

This bill does not specify the type of documentation an ISP would be required to maintain in order to substantiate their eligibility for this credit. This bill also does not specify how the ISP would verify that the household meets the income qualification for lifeline telephone service. This raises a privacy issue for the members of the household that are eligible for the computer and Internet access.

Amendments 2 and 11 would provide that a low-income household must receive lifeline telephone service as opposed to just qualifying to receive it. This language would prohibit an ISP from requiring a low-income household to provide it with income information, as the telephone company providing the lifeline service will have already verified this information. An ISP that verifies the low-income household is receiving the lifeline service also will have the documentation, a phone bill from the household, to substantiate their eligibility for this credit.

This bill does not specify the length of time during the year the Internet service must be provided to qualify for the credit. It appears if service were provided for any period during the taxable year, the taxpayer would qualify for the credit. The bill also does not contain a recapture provision for the credit in the event the ISP discontinues the Internet service before the low-income household receives a full twelve months of service. This bill needs clarification to ensure that the low-income household receives the benefit intended by the author.

This bill is silent on whether the ISP is required to provide a monitor with the computer and Internet access. Clarification is needed to ensure the ISP provides all the components that are necessary for a low-income household to realize the benefit intended by this bill.

This bill uses a term, “child,” that is not defined. Amendments 3 and 12 would define “child” as it is used in the federal tax law definition of head of household. This language would clarify the definition to include stepchildren and grandchildren.

This bill uses a phrase, “unlimited use,” that is not defined. Amendments 4 and 13 would define the “unlimited use” of the internet access to specify that the low-income household has no restrictions as to the amount of time that may be spent using the Internet access.

<u>TECHNICAL CONSIDERATIONS</u>

The remaining amendments renumber the subdivisions and correct various typographical errors.

LEGISLATIVE HISTORY

SB 1626 (Hayden, 1999/2000) proposed a refundable credit for specified low-income taxpayers that purchase a personal computer, printer, and access to the Internet. This bill failed passage in the Senate Revenue and Taxation Committee. SB 1817 (Murray, 1999/2000) a similar bill as amended on May 15, 2000, failed passage in the Senate Revenue and Taxation Committee. AB 2163 (Cunneen, 1999/2000) proposed credits for taxpayers that provide low-income households a computer or Internet access. This bill failed passage in the Assembly Committee on Information Technology.

OTHER STATES’ INFORMATION

Currently no other state allows a credit for providing Internet connections and Internet access devices.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

This bill would result in revenue losses as shown in the following table.

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 2000 Enactment Assumed After June 30, 2001 $ Millions		
2001-02	2002-03	2003-04
Minor Loss*	Minor Loss*	Minor Loss*

* Loss not exceeding $500,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Note: This bill does not specify that a personal computer includes a monitor. For this analysis, it is assumed that a monitor also is required.

Revenue Discussion:

The revenue impact for this bill will be determined by the number of qualifying contributors, the value of donations, and the amount of credits that can be applied against available tax liabilities.

It is unknown how many taxpayers would donate a personal computer and provide an Internet connection without charge to low-income families. However, consistent with SB 1817 (1999-2000 session), the revenue loss would most likely be minimal. That is because many taxpayers with available computers would maximize the amount of the tax benefit of their contribution by electing to take the existing charitable deduction for donations to schools/libraries for federal and state tax purposes rather than a $200 credit per household. Therefore, the revenue loss would be minor in any given year. A $500,000 revenue loss reflects 2,500 low-income families per year.

ARGUMENTS/POLICY CONCERNS

This bill does not restrict the credit to taxpayers that provide Internet connections and Internet access devices to low-income households that are located only in California.

The credit in this bill would be allowed if the child attends public school. It would not be allowed if the child is in private school or is home-schooled, which may be viewed as inequitable.

Currently the department is moving toward paperless, electronically filed (E-file) returns as part of its e-government goal to provide taxpayers electronic services that are convenient, easy to use, and delivered in Internet time. This bill would support the direction of the department by allowing more taxpayers to access the Internet.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 121
As Introduced January 24, 2001

AMENDMENT 1

On page 2, line 39, strikeout "the" and insert:

a

AMENDMENT 2

On page 3, strikeout line 3, and insert:

(1) The household receives

AMENDMENT 3

On page 3, strikeout lines 7 and 8, and insert:

(2) At least one member of the household, within the meaning of Section 2(b) of the Internal Revenue Code, is an individual enrolled in public school in grades K to 12, inclusive.

AMENDMENT 4

On page 3, amend line 17, as follows:

(d) For purposes of this section, "unlimited use of Internet access" means access to the Internet without limitation as to the amount of time that access is provided.
(e) For purposes of this section, "~~Personal~~ personal_computer" means

AMENDMENT 5

On page 3, line 30, strikeout "(e)" and insert:

(f)

AMENDMENT 6

On page 3, line 34, strikeout "(f)" and insert:

(g)

AMENDMENT 7

On page 3, modify line 37 as follows:

necessary, or until the credit is exhausted, whichever occurs first.

AMENDMENT 8

On page 3, line 38, strikeout “(g)” and insert:

(h)

AMENDMENT 9

On page 4, line 16, strikeout “the”

AMENDMENT 10

On page 4, line 19, strikeout “the Internet access and the” and insert:

Internet access and a

AMENDMENT 11

On page 4, strikeout line 24, and insert:

(1) The household receives

AMENDMENT 12

On page 4, strikeout lines 28 and 29, and insert:

(2) At least one member of the household, within the meaning of Section 2(b) of the Internal Revenue Code, is an individual enrolled in public school in grades K to 12, inclusive.

AMENDMENT 13

On page 4, line 38, after “(d)” insert:

For purposes of this section, “unlimited use of Internet access” means access to the Internet without limitation as to the amount of time that access is provided.
(e)

AMENDMENT 14

On page 5, line 2, strikeout “of” and insert:

or

AMENDMENT 15

On page 5, line 12, strikeout “(e)” and insert:

(f)

AMENDMENT 16

On page 5, line 16, strikeout “(f)” and insert:
(g)

AMENDMENT 17

On page 5, modify line 19 as follows:

<u>or </u>until the credit is exhausted, ~~which ever~~ <u>whichever</u> occurs first.

AMENDMENT 18

On page 5, line 20, strikeout “(g)” and insert:

(h)

AMENDMENT 19

On page 5, modify lines 24 through 28 as follows:

claiming the credits. ~~(h)~~ The Franchise Tax Board shall also report the industry classifications of corporate taxpayers claiming the credits.

<u>(i)</u> This section shall remain in effect only until December 1, 2007, and as of that date is repealed.