

# ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Battin Analyst: Kristina E. North Bill Number: SB 698  
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 23, 2001  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Public or Private School-Sponsored Extracurricular Activity Fees Credit

## SUMMARY

This bill would create a credit for individuals who pay fees for extracurricular activities to a public or private school.

## PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage financial participation by parents or other persons affiliated with schools to help defray costs so the school may sponsor extracurricular activities.

## EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. The credit would apply to taxable years beginning on or after January 1, 2001.

## POSITION

Pending.

### Summary of Suggested Amendments

Department staff is available to assist with amendments to resolve the implementation concerns discussed in this analysis.

## ANALYSIS

### FEDERAL/STATE LAW

**Current federal and state laws** allow a tax deduction for limited types of personal expenses. Some personal expenses, including certain taxes and home mortgage interest, generally are fully deductible. Personal medical and dental expenses are deductible only to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI). Other miscellaneous itemized deductions, including unreimbursed employee expenses, job education, and tax preparation fees, must exceed 2% of AGI to be deductible. Generally, expenses paid or incurred for the education of a child are considered personal expenses that are not deductible.

Board Position:

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Department Director

Date

**G. Alan Hunter for GHG**

**04/19/01**

**Current federal and state laws** allow a deduction for charitable contributions to various types of qualified organizations, including educational organizations, such as public schools.

**Current federal and state laws** allow a deduction for business expenses, which could include advertising on school team uniforms and other sponsorship activities.

**Current federal and state laws** provide 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). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

### THIS BILL

Under the Personal Income Tax Law, **this bill** would create a 100% credit, up to \$200, for taxpayers that pay fees to a public or private school for qualified extracurricular activities.

**This bill** would define “qualified extracurricular activities fees” as amounts paid by a taxpayer to a public or private school that were deposited by the school into an extracurricular activity fund. The fund would be used exclusively by the school to offset the cost of school-sponsored optional credit or noncredit educational or recreational activities, including field trips, interscholastic athletics, intramural programs, and after-school enrichment programs.

Any unused credit could be carried over until exhausted.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- ◆ Extracurricular activities would include optional credit or noncredit educational and recreational activities. This definition is fairly broad and may be interpreted to mean vacation trips such as "Grad Night." The author may wish to clarify the meaning of "extracurricular activities" and further define terms and phrases such as “field trips,” “interscholastic athletics,” “intramural programs,” and “after-school enrichment programs,” to ensure that the credit is utilized in a manner consistent with the author's intent.
- ◆ Further clarification of the term “fees” is necessary. It is unclear if the term “fees” includes only payments by taxpayers to enable their children to participate in these programs or whether this term is intended to also apply to contributions from disinterested community members in support of these activities. It is also unclear if these “fees” would include payments by businesses for team sponsorships, the purchase of team uniforms, etc. The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of the credit.

- ◆ This bill does not require verification that fees were paid to offset the cost of school-sponsored extracurricular activities. While the taxpayer would have the cancelled check written to the school fund for verification purposes, it would be helpful if the bill required the school to provide a receipt to the taxpayer since a taxpayer might have other cancelled checks payable to the school for purposes other than this credit. The receipt could verify that the money was deposited into the school's extracurricular fund to ensure that the money was not paid for another purpose. The taxpayer would be required to provide the receipt upon the department's request.
- ◆ This bill does not limit the number of years for the carryover period for any unused credit. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

## LEGISLATIVE HISTORY

**AB 122** (Kaloogian, 1999/2000), **ABX1 34** (Kaloogian, 1999/2000), and **AB 2109** (Kaloogian, 1997/1998) would have created a 100% credit, up to \$500, to taxpayers for any fees paid to a qualified school in support of a school-sponsored activity. **AB 122** failed passage out of its house of origin by January 31<sup>st</sup> of second year of session; **ABX1 34** died at the Assembly Desk; and **AB 2109** was held in the Assembly Appropriations Committee.

## OTHER STATES' INFORMATION

A review of the laws of six states, **Illinois, Massachusetts, Michigan, Minnesota, and New York**, found no comparable tax credits or deductions. These states were reviewed because of the similarities between their tax laws and California's income tax laws.

## FISCAL IMPACT

With the resolution of the implementation concerns, this bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Tax Revenue Estimate

Based on data and assumptions discussed below, revenue losses from this bill are estimated to be as follows:

Estimated Revenue Impact of SB 698(*) As Introduced February 23, 2001 Enactment Assumed After 6/30/01 (In \$Millions)			
Fiscal Years	2001/2002	2002/2003	2003/2004
<b>TOTAL</b>	-\$90	-\$91	-\$92

\* As written, this bill would cover any public or private school in California.

Any possible changes in employment, personal income, or gross state product that might result from this proposal are not taken into account.

### Tax Revenue Discussion

Revenue losses would be determined by the number of taxpayers making payments to any public or private California school to be used for extracurricular activities.

According to data from the California Department of Education, the number of students enrolled in all California public and private schools (K-12 and colleges) was approximately 8.8 million during the 1999/2000 school year.

To estimate the magnitude of potential revenue losses from this proposal, it was assumed that 5% of students would have taxpayers paying an amount of \$200 during the school year for students' participation in qualified activities. The number of contributors was grown annually by school enrollment growth rates.

### **POLICY CONCERNS**

This bill would provide an unprecedented 100% credit of qualifying expenses up to \$200.

This bill would allow a charitable contribution deduction or business deduction to be claimed for the same expenses claimed for this credit. Thus, this bill could provide a significant double benefit in excess of the taxpayer's actual out-of-pocket costs.

This bill does not contain a sunset date for the credit. Sunset dates generally are provided to allow periodic review by the Legislature.

This bill allows a credit for fees paid to both public and private schools. Since the qualifying activities are broadly defined, these fees may be used by the school for religious activities, such as field trips to houses of worship, that would be in violation of the separation of church and state doctrine in the United States Constitution.

This bill does not indicate whether the \$200 credit is per individual taxpayer, or per household. For example, it appears that a husband and wife filing jointly can claim a total of \$400, while a taxpayer filing as a head of household can only claim \$200.

### **LEGISLATIVE STAFF CONTACT**

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