

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Alarcon Analyst: Jennifer Bettencourt Bill Number: AB 1652

Related Bills: See Legislative History Telephone: 845-5163 Introduced Date: February 23, 2007

Attorney: Doug Powers Sponsor: \_\_\_\_\_

**SUBJECT:** Qualified Professional Volunteer Educator Credit/Low-Performing Schools

**SUMMARY**

This bill would allow a credit for a qualified professional who volunteers to provide instruction at a low-performing school.

**PURPOSE OF THE BILL**

It appears that the purpose of this bill is to recruit qualified professionals to volunteer their time to teach at low-performing schools.

**EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2008.

**POSITION**

Pending.

**ANALYSIS**

FEDERAL/STATE LAW

Existing state and federal 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. Current state and federal law does not have a credit similar to the one included in this bill.

Board Position:	Department Director	Date
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## THIS BILL

This bill would allow a credit for a qualified professional in an amount equal to the volunteer educator credit.

This bill defines the following terms:

“Qualified professional” means a person who volunteered, without pay from a school district, to provide instruction that is supplemental to the curriculum of a course at a low-performing elementary or secondary school and who meets at least one of the following criteria:

- The person is employed by a public agency or a public benefit corporation.
- The person is licensed under the Business and Professions Code to engage in a particular trade or business.
- The person is licensed to own a business in the state.

“Volunteer educator credit installment” means an amount equal to the average pay that a teacher in the school district in which the qualified person volunteered would have received for the time the qualified professional provided instruction.

“Volunteer educator credit” means the total sum of volunteer credit installments earned by a qualified professional during the taxable year.

This bill would also require the governing body of each school district to:

- Determine the professions within that district in which a qualified professional may be employed to be eligible for the credit. Determinations would be based on projected skills needed for pupils in the district to improve their academic performance.
- Notify each qualified professional of the amount of his or her volunteer educator credit installment.
- Notify the Franchise Tax Board (FTB) of the determinations made for eligibility of the credit and who in that district was notified of his or her volunteer educator credit installment and the amount of each credit.

This bill would allow any excess credit amount to be carried over until exhausted.

This bill would also require the State Board of Education to report to the Legislature on the effectiveness of the tax credit by determining any increase in recruiting qualified professionals to teach in low-performing schools.

This bill would declare the intent of the Legislature to make statutory changes to provide moneys, derived under the Quality Education Investment Act of 2006, to low-performing schools that improve their performance.

This bill would also provide reimbursement, as referenced by Government Code (Part 7 of Division 4 of Title 2), to local agencies and school districts for any costs this bill may cause; costs would be determined by the Commission on State Mandates.

**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.

This bill uses terms that are undefined, i.e., "low-performing elementary or secondary school." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit. The author may wish to amend the bill to reference the definition of "low-performing elementary or secondary school" in California Education Code section 44238(e) (3)<sup>1</sup>.

This bill would require that the governing body of each school district send notification to FTB that includes volunteers that qualify for the credit and the amount. To ease implementation of this bill, it is recommended that the author require certification of this credit by another agency or agencies that possess the relevant expertise, such as the Department of Education. The certification language would specify the responsibilities of both the certifying agency and the taxpayer.

**OTHER STATES' INFORMATION**

Review of *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax credits. These states were reviewed because of the similarities between California income tax laws and their tax laws.

**ECONOMIC IMPACT**

Revenue Estimate

Based on data and assumptions discussed below, this provision would result in the following revenue losses.

Estimated Revenue Impact of AB 1652 Effective for Tax Years BOA 1/1/2008 Assumed Enactment Date After 6/30/07 (\$ In Millions)		
2007/08	2008/09	2009/10
-\$10	-\$45	-\$60

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

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<sup>1</sup> Education Code section 44238(e)(3): "Low-performing schools" means schools that are ranked in the lowest two deciles on the Academic Performance Index.

## Revenue Discussion

The revenue impact of this bill is dependent on the number of qualified professionals who volunteer to teach in low-performing schools, the number of hours volunteered, and the amount of credits that can be applied to reduce tax liabilities.

According to the Department of Education, there are approximately 3,200 low performance schools in California. None of the schools and school districts that were contacted maintain a list of active volunteers or tracks the number of hours donated. Based on contact with a small number of large school districts, approximately 600 volunteers per district registered during the 2006 calendar year. This number is not cumulative; it does not include volunteers that have registered in prior years.

This estimate assumes two-thirds of the 3,200 low-performing schools have 30 qualified professionals volunteer an average of four hours each month during a typical school year (nine months), time volunteered would total 2.3 million hours (3,200 schools x 2/3 x 30 volunteers x 36 hours).

The average hourly pay for teachers within the state is approximately \$30. For 2008, the total credits are estimated at \$69 million (2.3 million hours x \$30 per hour). It is anticipated that this bill would encourage more qualified professionals to volunteer their time. To reflect this, the estimate is increased by 10% in 2008 and each year thereafter. The total amount of credits generated in 2008 equals \$76 million (\$69 million x 110%).

It is assumed that 50% or \$38 million (\$76 million x 50%) of the total credits would be absorbed by tax in the year generated, while 40% would be carried over and applied ratably in the succeeding two years. The remaining 10% would never be applied. Taxable year estimates are converted to cash flow fiscal year estimates, as shown in the table above.

## **ARGUMENTS/POLICY CONCERNS**

This bill does not limit the number of years for the carryover period. 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.

This credit would not be limited to taxpayers that are residents of California. However, restrictions based on residence of a taxpayer have been found to be unconstitutional.

## **LEGISLATIVE STAFF CONTACT**

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