

Franchise Tax Board

**ANALYSIS OF ORIGINAL BILL**

Author: Jeffries Analyst: Angela Raygoza Bill Number: AB 33  
Related Bills: See Legislative History Telephone: 845-7814 Introduced Date: December 4, 2006  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** School Transportation Costs Credit

**SUMMARY**

This bill would provide a personal income tax credit for school transportation costs.

**PURPOSE OF THE BILL**

According to the author’s office, the purpose of this bill is to help defray personal expenses for those taxpayers who are required to pay for school transportation costs.

**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, 2007.

**POSITION**

Pending.

**ANALYSIS**

FEDERAL/STATE LAW

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or to achieve social goals.

Board Position:	Department Director	Date
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## THIS BILL

This bill would provide a credit in the amount of 20% for costs paid or incurred by a taxpayer for school transportation costs.

The bill would define the following terms:

- “School transportation costs” means any costs for transporting any child of the taxpayer and any child of whom the taxpayer is the legal guardian to any school in this state that provides instruction for kindergarten or grades 1 to 12, inclusive.
- “School transportation costs” include any fees or charges imposed by the school or school district for the transportation.

Unused credits can be carried over to future years until the credit has been 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.

This bill would allow a credit for costs paid or incurred. As a result, if a taxpayer’s child received school transportation for which costs were incurred, the taxpayer would qualify for the credit regardless of whether the costs were actually paid. The author may wish to amend the bill to require proof of payment for incurred costs.

It is unclear what expenses qualify as “costs for transporting the child.” Without clarification, it could be interpreted that the services of a chauffeur, the purchase of skates or scooters, or the costs to maintain and insure the family vehicle could qualify a taxpayer for this credit. In addition, the author should consider whether school transportation costs include costs of transporting the child to and from activities outside the normal school day, such as:

- Fieldtrips and outings,
- Pre school care and after school care, or
- School sports activities.

This bill would allow a credit for transporting any child of the taxpayer and any child for whom the taxpayer is the legal guardian. Normally credits are limited to taxpayers who have a qualifying child. An example of a qualifying child includes an individual who is any of the following:

- bears a relationship to the taxpayer,
- has the same principal place of abode as the taxpayer for more than one-half of the taxable year in the United States, and
- has not attained the age of 19 as of the close of the calendar year.

Accordingly, the author may want to consider amending the bill to clarify who is a qualifying child.

The author might also want to specify that if the child is a qualifying child of more than one person and each person paid qualifying expenses, that only one person may claim the qualifying expenses for the child.

The author may wish to specify that a taxpayer is not allowed to claim a credit based on the qualifying expenses paid by another person for that child.

Under this bill, the credit would be allowed for transportation costs to attend “any school” in this state. Any school could be interpreted to include private and public schools. If the author’s intent is to provide the credit for public school-related costs only, amendments are needed to further define “school.”

To verify that a taxpayer meets the credit requirements upon audit, it is suggested that the taxpayer be required to provide FTB a receipt upon request with the following information:

- The school’s name.
- The child and taxpayer’s name.
- The amount of school transportation costs and dates paid.

## **LEGISLATIVE HISTORY**

AB 2037 (Plescia, 2005/2006), AB 1625 (Pescetti, 2001/2002), and AB 122 (Kaloogian, 1999/2000) would have allowed a tax credit for contributions or fees paid to a public school to support its extracurricular activities. All three bills failed passage out of the Assembly Revenue and Taxation Committee.

## **OTHER STATES’ INFORMATION**

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found that *Minnesota* is the only state that has a credit similar to the credit this bill would create. *Minnesota* has a 75% refundable education credit for education-related expenses that include transportation costs; however, there is an adjusted gross income (AGI) limitation for qualifying taxpayers. These states were reviewed because of the similarities to California's income tax laws.

## **FISCAL IMPACT**

Once the implementation considerations are resolved, the department’s costs to implement this bill are expected to be minor.

## **ECONOMIC IMPACT**

The loss in tax revenue would be the amount of personal income tax credits allowed for school transportation costs. “School transportation costs” could generate available credits in excess of \$1 billion per year. Absent clarification, costs could include 100% allocation of a private vehicle’s depreciation and insurance and could also include costs associated with paid chauffeurs, private airplanes, boats, bikes, scooters, skates, and shoes.

## **POLICY CONCERNS**

Some credits have an AGI limitation, which limits the credit to those taxpayers with an AGI less than an established dollar amount. This bill would allow the credit to all taxpayers who incur school transportation costs, regardless of their AGI.

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 because experience shows credits typically are exhausted within eight years of being earned.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of tax credits by the Legislature.

## **LEGISLATIVE STAFF CONTACT**

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