ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Pan	Analyst:	Jessica Deitchman	Bill Number:	AB 2514
Related Bills:	See Legislative History	Telephone:	845-6310	Amended Date:	April 1, 2014
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Rural Health Professionals Student Loan Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), provide a tax credit for certain health care professionals.

RECOMMENDATION

No position.

Summary of Amendments

The April 1, 2014, amendments removed the intent language of the bill, and replaced it with the provisions discussed in this analysis. This is the department's first analysis of the bill.

Summary of Suggested Amendments

A technical amendment is included to provide additional clarity to a provision in the bill.

REASON FOR THE BILL

The reason for the bill is to provide an incentive for health care professionals to locate and work in medically underserved, rural areas of California.

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, 2014, and before January 1, 2019.

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.

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State and federal laws allow individuals to deduct the interest paid on qualified student loans from their taxable income.

Additionally, current state and federal programs offer several assistance programs for paying off student loans. These assistance programs are generally available to health care professionals that choose to work in a rural or underprivileged area under contract for a specific period of time.

Current federal and state laws lack a credit comparable to the credit being proposed in this bill.

THIS BILL

For taxable years beginning on or after January 1, 2014, and before January 1, 2019, this bill would provide a tax credit equal to the lesser of:

- One-third of the balance due on the "qualified taxpayer's" student loans as of January 1, of the taxable year in which the credit is allowed; or
- The total balance due on the qualified taxpayer's student loans as of January 1, of the taxable year in which the credit is allowed minus the total amount of credit allowed in previous taxable years.

The bill would define the following terms:

- "Qualified taxpayer" means an individual that meets the following requirements:
  - Is a dentist, physician, physician assistant, or advanced practice nurse who is licensed or certified to practice in California.
  - Resides and practices full-time in a rural health care professional shortage area and has committed to residing and practicing in that area for at least three years pursuant to an agreement between him or her and the State Department of Health Care services.
  - Is a borrower on student loans under a recognized loan program used by him or her for higher education opportunities resulting in a degree that enables him or her to be licensed or certified as a health care professional in this state.
- "Full-time" means at least 20 hours per week on average for 180 days for the first taxable year in which a credit is allowed and at least 20 hours per week on average for at least 10 months in subsequent taxable years.
- "Rural health care professional shortage area" means any area of the state that is not a metropolitan statistical area[1] and that is located 30 or more miles from the nearest hospital containing 30 or more licensed beds.
- "Student loan" means a student obligation note or other debt evidencing a loan to any individual for higher education purposes[2], which is a guaranteed student loan, an educational loan, or a loan eligible for consolidation or refinancing under the higher education act.[3]

[1] As described in the publication "State and Metropolitan Area Data Book," 2010, published by the United States Census Bureau
[2] Or for the purposes of consolidating or refinancing a loan for higher education purposes
[3] Under Park B of Title IV of the Higher education act of 1965, as amended

A credit would only be allowed for the taxable years in which:

- The qualified taxpayer is not delinquent on his or her student loan payments.
- The qualified taxpayer resides and practices in the rural heal care professional shortage area pursuant to an agreement with the State Department of Health Care Services.
- The qualified taxpayer's student loan has an outstanding balance for at least part of the taxable year.

The bill would provide a recapture provision if:

- The qualified taxpayer does not reside and practice within a rural health care professional shortage area during the period in which he or she was committed to reside and practice, or
- The qualified taxpayer pays off his or her student loan in full by means of any other loan repayment program.

Any remaining credit would be cancelled and the qualified taxpayer would be liable for any increase in tax attributable to previously applied credit for that taxable year in which the move occurred, practice ended, or in which the loan was paid in full.

A credit may be allowed for five consecutive taxable years and any unused credits may be carried over for up to six years or until exhausted.

The State Department of Health Care Services and the Franchise Tax Board (FTB) would promulgate rules and regulations as necessary or appropriate to implement this bill.

This credit would be repealed on December 1, 2019.

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.

Because the bill fails to specify otherwise, the FTB would be subject to the rulemaking procedures required under the Administrative Procedures Act (APA).[4] Because the bill is operative for taxable years beginning on or after January 1, 2014, following these rulemaking procedures may delay the immediate implementation of this bill. To prevent any delay, it is recommended that the author add a provision exempting the FTB from the APA when the FTB is prescribing rules, guideline, or procedures necessary or appropriate to carry out the purpose of this bill.

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[4] [1] Government Code section 11340 et seq.

The bill requires that in order to claim the credit the qualified taxpayer must not be delinquent on their student loan payments. It is unclear how the FTB would know that the taxpayer is not delinquent on the loans for which they are taking a credit. It is recommended the bill be amended to clarify that documentation be provided to the FTB when the qualified taxpayer claims the credit.

The bill fails to specify the detail that must be included in the agreement to practice and reside in a rural health care shortage area or when and how often the agreement must be updated, and whether and when the State Department of Health Care Services would be required to report to the FTB. It is recommended the bill be amended to specify these requirements of the agreement.

TECHNICAL CONSIDERATIONS

The recapture provision is inconsistent with similar provisions within the PITL and Corporation Tax Law. Amendments 1 - 3 are provided for consistency and internal harmony with existing language.

LEGISLATIVE HISTORY

AB 218 (Maze, 2005/2006) and AB 293 (Maze, Parra 2005/2006) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. Both bills failed passage out of the Assembly Revenue and Taxation Committee.

AB 988 (Maze, 2003/2004) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. AB 988 failed passage out of the first house by the constitutional deadline.

AB 2164 (Cogdill, 2001/2002) would have allowed a tax credit to medical professionals who work in rural communities. AB 2164 failed passage out of the Assembly Revenue and Taxation Committee

SB 1026 (Calderon, 2007/2008) would have allowed a tax credit to qualified health care providers for the costs to provide health care to certain California residents. SB 1026 failed passage out of the Senate Committee on Health.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

The costs to administer this bill have yet to be determined. As the bill continues to move through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 2514 As Amended April 1, 2014 Assumed Enactment After June 30, 2014 ($ in Millions)		
2014-15	2015-16	2016-17
- $5.0	- $3.5	- $3.8

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that the bill would increase access to health care in underserved areas by encouraging health care professionals to reside and practice in these areas.

Opponents: Some may argue that providing a tax credit limited to health care professionals that work in rural areas may be overly narrow and inadvertently exclude other industries that need more professionals providing a service.

POLICY CONCERNS

Because some taxpayers can reduce their taxable income by their student loan interest, this bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

This bill would allow a credit for health practitioners that work and live full-time in a shortage area, as defined. Full-time is defined in the bill as at least 180 days out of the taxable year. Because the bill may not be enacted until late September or early October, and there would not be 180 working days left in the 2014 calendar year, this credit would only apply to those health practitioners that were already living and working in the shortage area, and those that moved into the area as a result of this bill being enacted, would be unable to claim the credit until tax year 2015. Further, those already living in the area would only qualify for the credit if they “had an agreement with the State Department of Health Care services.” Because this term is undefined and it is unknown if this type of agreement already exists in current employment situations, unless the health practitioner were able to secure the agreement between October and December of the

taxable year, it is unclear if anyone would qualify for the credit in 2014. If it is the author's intent to allow those health practitioners moving into the area as a result of the bill to be allowed the credit in the year in which they moved, the bill should be amended to modify the operative date to taxable years beginning on or after January 1, 2015.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2514
AS AMENDED APRIL 1, 2014

Amendment 1

On page 3 strikeout lines 37-40, inclusive

Amendment 2

On page 4 strikeout lines 1-7, inclusive

Amendment 3

On page 3, after "taxable year." Insert:

(d) If the qualified taxpayer ceases to resid and practice in the rural health care professional shortage area, or his or her student loan is paid in full by means of any other loan repayment program, the tax imposed by this part for the taxable year in which that cessation occurs shall be increased by an amount equal to the credit allowed under this section that was applied to reduce tax otherwise payable under this part by the qualified taxpayer. Additionally, any unused credit carried over by the qualified taxpayer shall be forfeited.