

# ANALYSIS OF AMENDED BILL

Author: Alquist Analyst: Colin Stevens Bill Number: AB 1747  
 Related Bills: See Legislative History Telephone: 845-3036 Amended Date: 3/17/98  
 Attorney: Doug Bramhall Sponsor: \_\_\_\_\_

**SUBJECT:** Exclusion/Education Assistance Plan Payments/Allow Exclusion for Payments

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would allow an employee to exclude from gross income the amount, not to exceed \$5,250 per year, that an employer pays or incurs for the employee taking graduate level courses beginning on or after January 1, 1998.

SUMMARY OF AMENDMENT

The March 17, 1998, amendments removed language that would have allowed a telecommuting credit and inserted the language discussed in this analysis.

EFFECTIVE DATE

This bill would take effect upon enactment and would apply to taxable years beginning on or after January 1, 1998.

LEGISLATIVE HISTORY

AB 1360 (1997), SB 38 (Stats. 1996, Ch. 954), AB 1905 (1995/96), SB 1936 (Stats. 1994, Ch. 99), AB 274 (Stats. 1990, Ch. 452).

DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Board Position: <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> SA <input type="checkbox"/> OUA <input type="checkbox"/> N <input type="checkbox"/> NP <input type="checkbox"/> NA <input type="checkbox"/> NAR <input checked="" type="checkbox"/> PENDING	Agency Secretary Position: <input type="checkbox"/> S <input type="checkbox"/> O <input type="checkbox"/> SA <input type="checkbox"/> OUA <input type="checkbox"/> N <input type="checkbox"/> NP <input type="checkbox"/> NA <input type="checkbox"/> NAR DEFER TO _____	<b>GOVERNOR'S OFFICE USE</b>  Position Approved    ___ Position Disapproved ___ Position Noted        ___  By: _____                      Date: _____
Department/Legislative Director      Date <b>G. Alan Hunter</b> <b>3/30/98</b>	Agency Secretary                              Date	

### SPECIFIC FINDINGS

Prior to the August 1996 retroactive extension of the educational assistance provision, federal law provided an exclusion from gross income, not to exceed \$5,250 per year, for the amount paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee, for graduate and undergraduate courses taken before December 31, 1994. The retroactive extension provided an exclusion from gross income for undergraduate courses taken before July 1, 1997, and for both undergraduate and graduate courses taken before July 1, 1996. The Taxpayer Relief Act of 1997 extended the gross income exclusion only for undergraduate courses beginning before June 1, 2000.

In September 1996, the state repealed its educational assistance conformity provision and adopted a permanent state provision which followed federal law and provided that expenses for graduate courses were not excluded from gross income. Therefore, **current state law** excludes from gross income the amount, not to exceed \$5,250 per year, paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee. For purposes of the exclusion, educational assistance does not include courses taken at the graduate level beginning after June 30, 1996.

**This bill** would allow an employee to exclude employer-paid expenses for graduate courses taken in taxable years beginning on or after January 1, 1998.

#### Policy Considerations

This bill would establish an exclusion which would not have a counterpart in federal law, thus increasing nonconformity.

#### Implementation Considerations

Implementation of this bill would not significantly impact the department.

#### Technical Consideration

The existing law specifies that it applies to expenses relating to courses beginning after June 30, 1996. This operative date applied to the last bill which amended this section. Amendments 1 and 2 are provided at the author's request to clarify that reimbursement for graduate level courses would be allowed for courses beginning after June 30, 1998.

### FISCAL IMPACT

#### Departmental Costs

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

#### Tax Revenue Estimate

The revenue losses from this bill are estimated to be:

Fiscal Year Revenue Loss \$ Millions Assumes Enactment After June 30, 1998 Effective Date January 1, 1998		
1998-9	1999-2000	2000-1
(\$14)	(\$14)	(\$14)

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

Tax Revenue Discussion

The exclusion for employer-reimbursed educational expenses expired for graduate level classes on June 30, 1996. This bill reinstates the exclusion beginning January 1, 1998.

The estimated revenue impact of this proposal was derived from federal estimates of the revenue impact of the federal provision for educational assistance programs. First, the federal estimates were prorated to California levels based on the ratio of California's personal income and average tax rate to federal personal income and average tax rate (3.4%). Second, the annual revenue impact of this exclusion for undergraduate courses was calculated by analyzing the data for years in which the federal exclusion applied only to undergraduate classes. Third, the annual revenue impact from the exclusion for graduate courses was calculated by subtracting the impact of undergraduate courses from the total impact for years in which the federal exclusion applies to both graduate and undergraduate courses. This yields an estimated revenue loss to California from extending the exclusion to graduate courses of \$14 million per year. The fiscal year estimates assume that, rather than adjusting withholding for state purposes, most taxpayers would wait until the end of the calendar year to claim this exclusion.

BOARD POSITION

Pending.

Analyst            Colin Stevens  
Telephone #       845-3036  
Attorney           Doug Bramhall

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1747  
As Amended March 17, 1998

AMENDMENT 1

On page 4, line 34, after "(f)", insert:

(1)

AMENDMENT 2

On page 4, after line 35, insert:

(f)(2) The amendments made to this section apply to graduate level courses beginning after June 30, 1998.