

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: House Analyst: Kristina North Bill Number: AB 49

Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: 12/07/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Private School Credit

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would allow a taxpayer to claim a \$500 credit for each child of the taxpayer attending a private school in this state.

EFFECTIVE DATE

This bill would be effective immediately and apply to taxable years beginning on or after January 1, 1999.

LEGISLATIVE HISTORY

AB 2110 (1997/98)

SPECIFIC FINDINGS

Current state and federal 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. Deductible personal medical and dental expenses must exceed 7.5% of the taxpayer's adjusted gross income (AGI), while other miscellaneous itemized deductions, including unreimbursed employee expenses, job education, and tax preparation fees, must exceed 2% of AGI. Generally, expenses paid or incurred for the education of a child are considered a personal expense which is not deductible.

Federal law currently allows a Hope Scholarship credit and a lifetime learning credit for certain tuition expenses, as well as a deduction for interest due and paid on a qualified higher education loan. **State law** has conformed to the education interest deduction but does not currently allow a credit for tuition expenses.

Under the PITL, **this bill** would allow a taxpayer to claim a \$500 credit for each child of the taxpayer attending a private school in this state.

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

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald Goldberg

1-29-99

Since **this bill** does not specify otherwise, the general rules in income tax law regarding the division of credits between taxpayers who share in the costs would apply. This credit would not reduce regular tax below tentative minimum tax for alternative minimum tax purposes.

Policy Considerations

Tax credits generally contain a sunset date so the Legislature may review their effectiveness. This credit does not contain a sunset date.

Credits generally are designed to encourage a desired behavior. This bill would allow a credit for behavior in which taxpayers may be currently engaged. For example, a taxpayer currently enrolling his or her child in a private school would receive this credit.

Most tax incentives also are linked to actual expenses. This credit is specified as a set amount of \$500 regardless of the cost of the private school.

Implementation Considerations

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

- ◆ Definitions are needed for "child" and "private school." It is unclear whether the author intended that a "child" be a dependent. It is unclear what constitutes a "private school" and if preschools, home schools, colleges, graduate schools, and vocational schools would be included. Definitions would clarify the author's intent.
- ◆ This bill does not specify how long the "child" must attend the private school to qualify the taxpayer for this credit. As a result, it is unclear whether part-time or part-year attendance would qualify for the credit.
- ◆ It is unclear whether the author intended to allow nonresidents who send a child to a private school in California to qualify for this credit.
- ◆ Carryover of this credit would be allowed indefinitely. Credits that have been recently enacted typically contain a carryover limit since experience has shown that credits are used within eight years of being earned and can be safely removed from the tax forms and the department's systems.

FISCAL IMPACT

Departmental Costs

If this bill is amended to resolve the implementation concerns, this bill should not significantly impact the department's costs.

Tax Revenue Estimate

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

Revenue Impact of AB 49 (As Introduced 12/07/98) Enactment Assumed After 6/30/99 (In Millions)		
1999/2000	2000/01	2001/02
(\$680)	(\$665)	(\$680)

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

Tax Revenue Discussion

Revenue losses would depend on the amount of qualified credit claims in any given year applied against available tax liabilities. As indicated above in "Implementation," definitions are not provided for several terms. This estimate is based on the best available data.

According to the California Department of Education, the number of students enrolled in California private schools in grades K-12 (six or more students) was approximately 622,700 in school year 1997/98. About 16,000 students were enrolled in classes with five or fewer students. Data reflect only voluntary reports that were submitted.

In addition, the number of students enrolled for 1994 (latest available data), in California private vocational schools, colleges and universities was about 624,400 based on information from the California Postsecondary Education Commission.

These numbers were expanded by 2% annually for enrollment growth and by an additional one-time 10% (25% for postsecondary enrollments) to compensate for some nonreporting and an incentive effect. (Students in home-school and those enrolled in preschools were not included) The total number of enrollees was then reduced by 15% to allow for deceased or nonresident parents and nontaxable filers. The average applied credit would then depend on available tax liabilities. It should be noted that the size of dependent exemption credits has increased significantly under recent law changes (\$227 for 1999). If the average applied credit for potentially nearly 1.5 million students by 1999) is \$400, the revenue losses for this original proposal would be on the order of \$600 million for tax year 1999. The 1999/2000 fiscal impact reflects all of 1999 plus 15% of the year 2000 impact.

BOARD POSITION

Pending.