

# ANALYSIS OF ORIGINAL BILL

Author: Jones-Sawyer, et al. Analyst: Narinder Dosanjh Bill Number: AB 337  
 Related Bills: See Legislative History Telephone: 845-5275 Introduced Date: February 13, 2015  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	Teacher's Unreimbursed Instructional Materials & Classroom Supplies
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## SUMMARY

This bill would, under the Personal Income Tax Law, create a tax credit for certain education-related expenses.

## RECOMMENDATION

No position.

## REASON FOR THE BILL

The reason for this bill is to support new teachers for successful careers in their noble profession by providing a state tax credit for instructional materials and supplies.

## 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, 2015, and before January 1, 2020.

## FEDERAL/STATE LAW

Existing federal and state 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.

Federal law allowed eligible educators to deduct up to \$250 of the cost to purchase books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom as an adjustment to gross income. This deduction applied to taxable years beginning on or after January 1, 2002, and before January 1, 2015. California did not conform to this deduction.

There are currently no federal or state credits comparable to the credit this bill would create.

Board Position:	Executive Officer	Date
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## THIS BILL

For each taxable year beginning on or after January 1, 2015, and before January 1, 2020, this bill would create a tax credit in an amount equal to the amount paid or incurred by a qualified teacher during the taxable year for instructional materials and classroom supplies, not to exceed \$250 per qualified teacher or \$500 for two qualified teachers who are married to each other and filing a joint return.

For the purpose of determining this credit, the following definitions would apply:

- “Instructional materials and classroom supplies” means books, supplies, computer equipment, including related software and services and other equipment, and supplementary materials used in the classroom, including, but not limited to, supplies for courses in health and physical education, the amount paid or incurred for which is otherwise deductible under Section 162 of the Internal Revenue Code<sup>1</sup> and not reimbursed.
- “Qualified teacher” means a teacher who meets all of the following requirements:
  - A. The individual has worked at least 900 hours in the school year as a teacher, in a school offering instruction in kindergarten or any of grades 1 to 12, inclusive, in California at a public, charter, or private school that has a current private school affidavit on file with the State Department of Education in a school year.
  - B. The teacher is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.
  - C. The teacher customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.
  - D. The teacher is not employed as a tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or similar position.

The credit would be available for qualified teachers based upon the years of employment as a qualified teacher as follows:

### **Taxable Years**

### **Years of Employment**

January 1, 2015 – January 1, 2016

No more than one year

January 1, 2016 – January 1, 2017

No more than two consecutive years

January 1, 2017 – January 1, 2020

No more than three consecutive years

Any unused credit may be carried over to reduce tax for the following five years if necessary, until the credit is exhausted.

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<sup>1</sup> Internal Revenue Code section 162-Trade or Business Expenses.

The Franchise Tax Board (FTB) may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purpose of the credit. These rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

The bill states that the provisions of Section 41<sup>2</sup> would not apply.

This credit would be repealed by its own terms as of December 1, 2020.

## **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.

"Qualified teacher" would exclude individuals that are employed as a tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or similar position. As a result, teachers that are employed to work after hours or provide tutoring, may be ineligible for this credit. Additionally, individuals that work less than 900 hours as a teacher during a school year, substitute teachers or teachers that are hired later in a school year for example, could be ineligible for this credit. If this is contrary to the author's intent, the bill should be amended.

It is unclear how the department could verify an individual's eligibility for the credit. The author may wish to consider requiring the proper local agency to certify that the teacher met the requirements of this bill and requiring the taxpayer to obtain, retain, and provide to the FTB, upon request, evidence of that certification.

This bill would allow a credit for qualified teachers based upon the years of employment as a qualified teacher. However, this bill fails to specify when or how recently employment as a qualified teacher must have occurred. For example, would the years of employment begin one year after the effective date of the statute or would a teacher's years of employment before the effective date of the statute qualify the teacher for the credit? To avoid conflicts between taxpayers and the department, the bill should be amended.

## **LEGISLATIVE HISTORY**

AB 2427 (Jones-Sawyer, 2013/2014) similar to this bill, would have created a personal income tax credit for certain education-related expenses. AB 2427 failed passage out of the Senate Appropriations Committee.

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<sup>2</sup> Revenue and Taxation Code section 41 requires any bill introduced on or after January 1, 2015, that creates a new tax credit to contain language specifying goals, purposes, objectives, performance measures, and data collection and reporting requirements.

SB 413 (Knight, 2013/2014) would have created a personal income tax credit for qualifying science, technology, engineering, or mathematics (STEM) teachers. SB 413 failed passage out of the Senate Governance and Finance Committee.

SB 693 (Correa, 2013/2014) similar to this bill, would have created a personal income tax credit for certain education-related expenses. SB 693 failed passage out of the Senate Appropriations Committee.

AB 1071 (Fuentes, 2011/2012) would have created an income tax credit for the purchase of qualified school supplies by a credentialed teacher. AB 1071 failed passage out of the Assembly Revenue and Taxation Committee.

AB 2088 (Bonilla, 2011/2012) would have created a personal income tax credit for qualifying science, technology, engineering, or mathematics (STEM) teachers. AB 2088 failed passage out of the Assembly Revenue and Taxation Committee.

### **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.

*Florida* only has a corporation income tax therefore this personal income tax credit is not applicable.

### **FISCAL IMPACT**

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved. 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**

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 337 As Introduced February 13, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
- \$3.2	- \$6.2	- \$9.0

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

### **Revenue Discussion:**

Data from the California Department of Education indicates that approximately 17,000 individuals become teachers each year. The data also indicates that there is a 20 percent attrition rate for teachers; therefore, the number of teachers was reduced for the second and third years to reflect this attrition.

Data from the National Center for Education Statistics provides that teachers in California spend an average of \$715 each year on school supplies. Therefore, it is estimated that qualified teachers would be eligible for the entire \$250 credit, for a total credit generated of \$4.2 million in tax year 2015. This amount was then grown to compute future tax year amounts.

For purposes of this estimate, it is expected that 75 percent of the credit, or \$3.2 million, would be used in the year generated and the remainder utilized over the next five years.

The tax year estimates are converted to fiscal years then rounded to arrive at the amounts reflected in the table above.

### **SUPPORT/OPPOSITION**

Support: California Catholic Conference (Sponsor), California Association of Private School Organizations.

Opposition: California Teachers Association.

### **ARGUMENTS**

Proponents: Supporters could argue that this bill would provide some needed financial assistance to new teachers who reach into their own pockets to fund vital education resources and services.

Opponents: Some could argue that this bill is overly narrow and should be expanded to allow the credit to every K-12 teacher in California without regard to hours of employment during a school year or years of employment as a teacher.

### **POLICY CONCERNS**

This bill would allow a credit for specified instructional materials and classroom supplies paid or incurred that may currently be deductible as employee business expenses. Generally, a tax credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

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