

Author: Holden Analyst: Funmi Obatolu Bill Number: AB 586
Related Bills: See Legislative History Telephone: 845-5845 Introduced Date: February 14, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Teacher Professional Development Expense Credit and Deduction

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), allow a tax credit and a tax deduction for certain teacher professional development expenses.

RECOMMENDATION – NO POSITION

REASON FOR THE BILL

The reason for this bill is to strengthen the professional preparation of California's elementary and secondary school educators by supporting individuals that are, or will be, pursuing a clear teaching credential.

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, 2017, and before January 1, 2022.

FEDERAL/STATE LAW

Tax Credit

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.

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

Deduction from Gross Income

Existing federal and state laws allow for the deduction of certain expenses from gross income when calculating adjusted gross income (AGI), such as moving expenses and interest on education loans, certain ordinary and necessary trade and business expenses, losses from the sale or exchange of certain property, contributions for pension, profit-sharing and annuity plans of self-employed individuals, retirement savings, and alimony. Thus, all taxpayers with these types of expenses receive the benefit of the deduction, regardless of whether the taxpayer itemizes deductions or uses the standard deduction. These are known as above-the-line deductions.

Federal law allows 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. California did not conform to this deduction.

THIS BILL

Under the PITL, for each taxable year beginning on or after January 1, 2017, and before January 1, 2022, a qualified taxpayer would be allowed a tax credit in an amount equal to 50 percent of teacher professional development expenses paid or incurred, not to exceed \$500, by a qualified taxpayer during the taxable year.

The maximum amount of \$500 would be increased to \$1,000 for married couples or domestic partnerships filing a joint return, if both individuals are qualified taxpayers.

Additionally, no deduction would be allowed for the same expenses for which the credit was allowed and unused credits could be carried over for six years or until exhausted.

This bill would also allow, for each taxable year beginning on or after January 1, 2017, and before January 1, 2022, “an above the line”¹ deduction in an amount equal to the amount paid or incurred, not to exceed \$2,500, for teacher professional development expenses by a qualified taxpayer during the taxable year.

For the purpose of determining both the credit and deduction, the following definitions would apply:

“Qualified taxpayer” means a taxpayer who meets all of the following requirements:

- Completed a teacher preparation program and is in possession of a preliminary general education (multiple or single subject) teaching credential or a preliminary special education teaching credential.
- Enrolled in a program, approved by the Commission on Teacher Credentialing, in order to earn a general education clear credential or an education specialist instruction credential.
- Is not otherwise reimbursed for the teacher professional development expenses.
- Has not claimed this deduction for more than three taxable years.

¹ A deduction that reduces gross income to arrive at AGI, before the itemized or standard deduction.

“Teacher professional development expenses” means all of the following:

- Enrollment fees associated with the completion of an induction program sponsored by, or in partnership with, the employing school district or county office of education.
- Enrollment fees associated with the completion of an induction program that is offered by a college or university.
- Enrollment fees associated with the completion of an induction program sponsored by a neighboring district or county office of education if the program accepts participants who are not employed by a partner district.
- Enrollment fees associated with the completion of an online induction program.
- Enrollment fees associated with the completion of a general education clear credential or an education specialist instruction credential program sponsored by a college or university.

Additionally, all of these programs would be required to be approved by the Commission on Teacher Credentialing.

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

This bill would require the FTB to report to the Legislature annually on taxpayer utilization (use) of the credit.

The credit and the deduction would be repealed by their own terms as of December 1, 2022.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill uses terms that are undefined, i.e., “education specialist instruction credential program,” “employing school district,” “general education clear credential,” “induction program,” “neighboring district,” and “partner district.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

The definitions of “qualified taxpayer,” may be broadly interpreted. For example, “qualified taxpayer” lacks a requirement that the individual in question be employed in a teaching environment and it is unclear how the department would know whether an individual met the three year or less limit on reporting a credit or deduction.

The definition of “teacher professional development expenses” appears to require completion of all of the listed programs. If the author intends that any one of the listed programs would qualify as “teacher professional development expenses,” the bill should be amended for clarity.

The department lacks expertise in the teacher credentialing process. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise, for example, the Commission on Teacher Credentialing. The certification language would specify the responsibilities of both the certifying agency and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

It is unclear whether the \$500 limitation refers to the maximum amount of credit or the 50 percent of the teacher professional development expenses. For example, the bill could be interpreted to mean that the teacher profession expenses cannot exceed \$500 for a credit of \$250 or that the expenses cannot exceed \$1,000 for a credit of \$500.

Although the bill specifies that the same expense could not generate both the credit and the deduction, the bill is silent on an ordering for the credit and the deduction. As a result, a qualified taxpayer could report both the maximum credit and maximum deduction on a return for up to three taxable years, or report either a credit or a deduction for up to six taxable years. If this is contrary to the author's intent, this bill should be amended.

TECHNICAL CONSIDERATIONS

Subdivision (a) of section 17053.51 needs to be amended where the phrase "not to exceed to \$500" appears, as it should be "not to exceed \$500" for grammatical accuracy.

LEGISLATIVE HISTORY

SB 807 (Galgiani, 2017/2018) would allow qualified taxpayers, as defined, a tax credit for qualified costs paid or incurred during the taxable year to earn a clear teaching credential, and an eligible teachers, as defined, an exclusion of certain income from gross income. SB 807 is currently in the Senate Rules Committee.

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.

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.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process and implementation considerations 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 586 As Introduced February 14, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)		
2017-18	2018-19	2019-20
- \$2.1	- \$1.6	- \$1.8

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

Revenue Discussion

Based on data from the California Commission on Teacher Credentialing in 2015, there were approximately 2,200 qualified taxpayers that expended \$1,900 a year on qualified expenses. These amounts were adjusted for changes in the economy over time resulting in approximately 2,700 qualified taxpayers who would incur an average of \$2,000 in qualified teacher professional development expenses in taxable year 2017. It is assumed that all of the teachers would use the first \$1,000 in the calculation of the credit and would qualify for the maximum credit of \$500 and claim the remaining \$1,000 as a deduction. The estimated average deduction generated would be \$3 million. An average tax rate of 2.5 percent was applied, resulting in a \$75,000 revenue loss from the deduction. The estimated average annual credit generated would be \$1.3 million. It is assumed that 90 percent of the credits would be used in the year generated. The remaining 10 percent would be carried forward and used over the next five years. This results in a total revenue loss of \$1.3 million in taxable year 2017.

The tax year estimates are converted to fiscal year estimates, and then rounded and reflected in the above table.

SUPPORT/OPPOSITION

Support: California Catholic Conference.

Opposition: None provided.

ARGUMENTS

Proponents: Supporters could argue that this bill would strengthen the professional preparation of California's elementary and secondary school educators.

Opponents: Some may argue that the tax benefits this bill would allow may be overly broad and expensive.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

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