DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 4, 2007
POSITION: Oppose
SPONSOR: Treasurer

BILL NUMBER: SB 918
AUTHOR: J. Oropeza
RELATED BILLS: AB 2437 (2006), Ch. 90/06 (AB 2439)

BILL SUMMARY: Taxation: Deposits: Qualified Tuition Programs

This bill would allow taxpayers to direct any amount in excess of their tax liability to a Qualified Tuition Program (QTP) account.

FISCAL SUMMARY

The Franchise Tax Board (FTB) estimates that this bill could result in either an ongoing revenue gain of $250,000 or revenue loss of $250,000 beginning in 2007-08. The FTB also estimates that it could incur administrative and implementation costs above $2 million if this bill results in the tax return form expanding from two to three pages.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the May 2, 2007, version include the following significant amendment which does not change our position:

- Limits the taxpayer to only one designated QTP.

COMMENTS

The Department of Finance is opposed to this bill due to the uncertainties of its fiscal impact, which could be as large as $2 million in additional administrative costs.

Although Finance sees the merit in the intention to encourage QTP savings, this bill puts FTB in a role of managing taxpayers' financial transactions instead of taxpayers allocating their refunds themselves.

Analyst/Principal	Date	Program Budget Manager	Date
(0723) C. Angaretis		Mark Hill	

Department Deputy Director	Date

Governor's Office:	By:	Date:	Position Approved_______
			Position Disapproved

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ANALYSIS

A. Programmatic Analysis

Current federal law provides tax-exempt status to "qualified tuition programs" (QTPs). QTPs are programs established and maintained by a state, an agency, or an eligible educational institution to encourage saving for future education expenses of a designated beneficiary. Distributions and earnings from a QTP are not taxable, except to the extent the distributions exceed qualified higher education expenses, as defined. Contributions to a QTP are not deductible.

California law conforms to federal law as it relates to tax-exempt QTPs. In addition, state law in the Education Code, known as the Golden State Scholarshare Trust Act, establishes authority for California's qualified state tuition plan. There is no limitation on who may make a contribution to a Golden State Scholarshare Trust Account or where a designated beneficiary must incur qualified higher education expenses.

Under current state law, the Controller has the discretion to offset any amount due a state agency from a person or entity against any amount owing that person or entity by any state agency.
The Franchise Tax Board (FTB) administers the Interagency Intercept program on behalf of the Controller. The Interagency Intercept Program requires, through an annual enrollment process, other state agencies and the Internal Revenue Service to provide FTB with a list of debtors and amounts owed to be offset in the following tax filing season. As returns are filed, and tax refunds issued, any refunds due the taxpayer are offset to satisfy the debts identified by the participating agencies. All participating agencies are charged an administrative fee to cover the cost of the Intercept Program.

This bill would allow taxpayers to designate on their tax return that an amount in excess of tax liability be deposited into a QTP, as defined. The bill specifies that the designation shall be limited to one QTP, and shall only be allowed in full dollar amounts in excess of $1. FTB would be required to revise the form of the return to include the amount of the designation, account numbers, and named beneficiaries of the QTP. This bill specifies that if the payments on a tax return are not enough to cover both the tax liability and the amount designated for the QTP, the tax return will be treated as though the designation had not been made. In the event that a taxpayer designates a deposit to a QTP and to a voluntary contribution and the dollar amount designated is more than the refund amount, the refund would be allocated to the designees on a pro rata basis.

This bill would become effective January 1, 2008, and operative for designations made on tax returns filed on or after January 1, 2009.

Discussion:

FTB reviewed other states with similarities to California's economy, business types, and tax laws. The states reviewed include Illinois, Massachusetts, Michigan, Minnesota, and New York. These states have no laws similar to the provisions of this bill.

B. Fiscal Analysis

The FTB estimates that this bill could result in either an ongoing revenue gain of $250,000 or revenue loss of $250,000 beginning in 2007-08. The FTB also estimates that it could incur administrative and implementation costs above $2 million if this bill results in the tax return form expanding from two to three pages.

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The revenue impact of this bill would be determined by the difference in the amount of total contributions to QTP's deducted on tax returns each year under the current system and what that amount might be if this bill is implemented. According to FTB, the overall revenue impact would be negligible. FTB notes that providing taxpayers an additional mechanism to make QTP deposits would not necessarily increase the total amount deposited into QTP accounts. If a taxpayer's refund is less than expected, the total amount deposited could, in turn, be less than the amount deposited if this mechanism had not been in place.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2007-2008	FC	2008-2009	FC	2009-2010	Fund Code
1147/Pers Inc Tax	RV	Yes		--	U	-$250 - 250	U	-$250 - 250	0001
1730/FTB	SO	No	C	$2,000		--		--	0001