Date of Hearing: May 1, 2023

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Jacqui Irwin, Chair

AB 509 (Vince Fong) – As Amended April 5, 2023

SUSPENSE

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Personal income taxes: gross income: exclusion: student loan assistance

SUMMARY: Excludes from gross income for a period of two years under the Personal Income Tax (PIT) Law, payments made by an employer on the principal or interest of an employee's student loan, subject to an annual limitation. Specifically, **this bill**:

1) Includes in the definition of "educational assistance," under the PIT Law, amounts paid or incurred by an employer to service the principal or interest of an employee's student loan, as defined, for taxable years beginning on or after January 1, 2024, and before January 1, 2026, whether made to the employee or to the lender on behalf of the employee.

2) Prohibits exclusion of loan payment amounts for loans incurred for education of the employee's spouse or dependent.

3) States its intent to apply the requirements of Revenue and Taxation Code (R&TC) Section 41 to this bill's provisions.

4) Finds and declares that the goal of this exclusion is to ensure California addresses the student debt crisis that many people in the state face by helping many Californians receive a tax incentive on student loan repayment plans provided on behalf of the student by the employer. The effectiveness of the exclusion shall be measured by the decrease in student loan defaults, and increase in timely repayment of student loans by Californians.

5) Takes effect immediately as a tax levy.

EXISTING FEDERAL LAW:

1) Provides that all income from whatever source derived is taxable, unless otherwise excluded. (Internal Revenue Code (IRC) Section 61.)

2) Excludes from a taxpayer's gross income up to $5,250 per year in payments received from an employer for tuition, fees, books, supplies, and equipment under the employer's educational assistance program. Includes in this exclusion amounts paid by an employer before January 1, 2026 towards the principal or interest of an employee's educational loan. (IRC Section 127.)

3) Allows a deduction in computing adjusted gross income for interest paid during the taxable year on a qualified education loan, with a maximum of $2,500 in eligible payments and

reducing gradually as the taxpayer's modified adjusted gross income increases (IRC Section 221.)

EXISTING STATE LAW:

1) Conforms to the IRC, with certain modifications, as of January 1, 2015.

2) Generally conforms to the existing federal deduction of interest paid on a qualified education loan, with a maximum deduction of $2,500.

3) Authorizes a stand-alone exclusion from gross income, mirrored on the federal exclusion, for amounts received by an employee from an employer for tuition, fees, books, supplies, and equipment under the employer's educational assistance program, up to $5,250 (R&TC Section 17151).

FISCAL EFFECT: The Franchise Tax Board estimates a revenue loss of $90 million in fiscal year (FY) 2023-24, $160 million in FY 2024-25, and $70 million in FY 2025-26.

COMMENTS:

1) The author has submitted the following statement in support of this bill:

   > Student loan debt is on the rise and continues to climb as residents struggle to endure California's worsening affordability crisis. Student loan debt leaves less money in the pockets of Californians that have pursued higher education.
   >
   > By exempting employer student loan assistance from an employee's taxable state income, AB 509 will boost the economy, increase consumer spending, and help more Californians plan for their financial future.

2) The California Builders Alliance, writing in support of this bill, states, in part:

   > The California Builder's Alliance is pleased to support Assembly Bill 509. AB 509 would include in the definition of "educational assistance" a payment made by an employer of principal or interest on a qualified education loan, relating to interest on education loans, incurred by the employee for education of the employee. The bill would also make various technical changes to these provisions and delete obsolete language relating to graduate level educational assistance. The bill would also make specified findings detailing the goals, purposes, and objectives of the above-described exclusion for student loan assistance, and the performance indicators for determining whether the exclusion meets those goals, purposes, and objectives.

3) Committee Staff Comments:

   a) *Tuition and student debt data*: Tuition has risen in the past decade. According to data published by the College Board, a non-profit organization that develops and administers standardized tests and curricula used by elementary, secondary, and post-secondary institutions of education, published tuition and fee costs have increased by more than 18% for private, non-profit, four-year universities, and by about 14% for public, four-year universities[1]. This bill seeks to alleviate the burden of those costs by excluding certain employer payment amounts on the principal and interest of an employee's student loan from the employee's gross income.

The amount of student loan debt incurred by Californians is significant. The Education Data Initiative notes that 9.7% of Californians have $141.8 billion in student loan debt, equating to approximately 3.8 million Californians, with an average debt of $37,084[2].

b) *What does this bill do*? This bill would exclude from gross income payments on the interest and principal of a qualified education loan made on behalf of an employee by their employer. This exclusion would be subject to the aggregate $5,250 cap on the existing employer assistance program gross income exclusion, which translates to a maximum payment of $437.50 per month. Theoretically, employers already pay for an employee's student loans to the extent that the employee's salary is used to service a student loan. This bill could effectively provide an employee with a raise equal to taxes owed on those payments. Existing statute prohibits an educational assistance program from offering a choice to employees between educational assistance and other remuneration. However, could an employer offer a position at a reduced salary with the understanding that the corresponding payment of eligible student loans may attract candidates for employment, yet still not include this substitution as a condition of the employer assistance program?

   Moreover, eligible employees in higher tax brackets would see a larger benefit than those at a lower tax bracket, corresponding to the progressivity of California's tax structure, and employees who effectively pay no taxes in California would likely see no benefit at all. While this bill does not address the rising cost of higher education, it could help relieve the burden faced by those with large amounts of student loan debt.

c) *Tax benefits are a form of financial aid to students*: According to a report published by the Legislative Analyst's Office (LAO) in 2017, tax benefits are one of three main types of financial aid for students in California.[3] The other two types of financial aid are "loans" and "gift aid." This bill provides financial aid to certain taxpayers with student loans in the form of a tax benefit.

d) *Conformity*: The author and sponsors note that this bill is intended to conform to federal provisions enacted in 2019 by the Further Consolidate Appropriations Act of 2020 (Act). The Act expanded the definition of education assistance under the federal gross income exclusion for amounts paid by an employer on the principal or interest of an employee's student loan for payments made before January 1, 2026. This bill would authorize this exclusion under California law for taxable years beginning on or after January 1, 2024, and before January 1, 2026, thereby conforming to federal law.

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[1] *Trends in College Pricing and Student Aid* (2020) The College Board https://research.collegeboard.org/media/pdf/trends-college-pricing-student-aid-2020.pdf accessed March 2023.
[2] *Student Loan Debt by State* (2022) Education Data Initiative <https://educationdata.org/student-loan-debt-by-state#california> accessed March, 2023.
[3] *Overview of Student Loans*, LAO (2017), <https://lao.ca.gov/handouts/education/2017 /Student-Loans-Overview-082917.pdf>, accessed March, 2023.

e) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, United States Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each of them, in the form of forgone revenues. This bill would expand the definition of educational assistance for the gross income exclusion of employer payments for an employee's education expenses.

f) *Committee's tax expenditure policy*: SB 1335 (Leno), Chapter 845, Statutes of 2014, added R&TC Section 41, which recognized that the Legislature should apply the same level of review used for government spending programs to tax credits introduced on or after January 1, 2015. AB 263 (Burke), Chapter 743, Statutes of 2019, extended the requirements in R&TC Section 41 to all tax expenditure measures under the PIT Law, the Corporation Tax Law, and the Sales and Use Tax Law introduced on or after January 1, 2020. A tax expenditure proposal must outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote[4]. Sunsets are required because eliminating a tax expenditure generally requires a two-thirds vote. These requirements must be satisfied before a bill can receive a vote in this Committee. This bill complies with R&TC Section 41, and provides a two-year sunset in conformity with federal law.

g) *Related legislation*:

   i) AB 26 (Mike Fong) would exclude from a taxpayer's gross income qualified forgiven student loan debt for taxable years beginning on or after January 1, 2023, and before January 1, 2028. AB 26 is on this Committee's Suspense File today.

   ii) AB 35 (Committee on Budget) would exclude from a taxpayer's gross income forgiven amounts of certain student loan debt, after December 31, 2020, and before January 1, 2026. AB 35 is pending hearing by the Assembly Budget Committee.

   iii) SB 1 (Glazer, *et al*.) would, for taxable years beginning on or after January 1, 2022, and before January 1, 2026, exclude from gross income any amount of student loan debt waived, canceled, or otherwise forgiven by the United States Department of Education, as specified. SB 1 is pending hearing by the Senate Committee on Appropriations.

h) *Prior legislation*:

   i) AB 1729 (Voepel), of the 2021-22 Legislative Session, was substantially similar to this bill. AB 1729 was held on the Assembly Appropriations Committee's Suspense File.

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[4] An "appropriate sunset provision" shall mean five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" shall mean 10 years.

ii) AB 116 (Voepel), of the 2021-22 Legislative Session, was substantially similar to this bill. AB 116 was held on the Assembly Appropriations Committee's Suspense File.

iii) AB 152 (Voepel), of the 2019-20 Legislative Session, was substantially similar to this bill. AB 152 was held on the Assembly Appropriations Committee's Suspense File.

iv) AB 2478 (Voepel), of the 2017-18 Legislative Session, was substantially similar to this bill. AB 2478 was held on the Assembly Appropriations Committee's Suspense File.

v) AB 511 (Alquist), Chapter 107, Statutes of 2000, added, on or after January 1, 2000, amounts paid or incurred by an employer for an employee to attend graduate level courses as payments that may be excluded from the employee's gross income, up to $5,250 per calendar year, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Builders Alliance
Sacramento Regional Builders Exchange

Opposition

None on file

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