

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1371

**Introduced by Assembly Member Lackey
(Principal coauthor: Assembly Member Olsen)**

February 27, 2015

An act to amend Section 17072 of, and to add and repeal Section 17052.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as amended, Lackey. Personal income taxes: deduction: education expenses.

The Personal Income Tax Law allows various deductions in computing income that is subject to tax under that law.

This bill, for taxable years on or after January 1, 2016, and before January 1, 2021, would allow a deduction from *adjusted* gross income, not to exceed \$2,500, for the cost of education-related expenses of the taxpayer's dependent child or children attending public or private school, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) While ensuring the quality education of all of California's
2 ~~school children~~ *schoolchildren* is a shared responsibility of the
3 general public, it is foremost the duty of individual parents and
4 teachers.

5 (b) Providing tax relief for citizens who shoulder an extra weight
6 in pursuit of the common good has long been considered sound
7 public policy.

8 (c) Every school year, kindergarten and grades 1 to 12, inclusive,
9 parents across California pay at their own expense to obtain vital
10 educational resources and services that are essential to those
11 children entrusted to their parents' care.

12 (d) State education tax relief can help empower and engage low-
13 and middle-income families in personally caring for their own
14 ~~school children's~~ *schoolchildren's* learning needs, which they
15 know most intimately.

16 SEC. 2. Section 17052.5 is added to the Revenue and Taxation
17 Code, to read:

18 17052.5. (a) For each taxable year beginning on or after
19 January 1, 2016, and before January 1, 2021, there shall be allowed
20 as a deduction an amount equal to the qualified amount that was
21 paid or incurred for qualified education-related expenses for one
22 or more dependent children by a qualified taxpayer during the
23 taxable year.

24 (b) For purposes of this section:

25 (1) "Dependent children" means *one or more* children who
26 ~~attend~~ *meet all of the following requirements:*

27 (A) *Attend* kindergarten or any of grades 1 to 12, inclusive, in
28 California at a public, charter, or private school that has a current
29 private school affidavit on file with the State Department of
30 Education in the taxable year ~~and who meet~~ *year.*

31 (B) *Are deemed a full-time pupil in accordance with the*
32 *compulsory education requirements of Sections 48200 and 48222*
33 *of the Education Code, if applicable.*

34 (C) *Are under 21 years of age at the end of the school year.*

35 (D) *Meet* the requirements of Section 152(c)(1)(D) and (E) of
36 the Internal Revenue Code.

37 (E) *Are claimed as the dependent children on the original, timely*
38 *filed return of the qualified taxpayer.*

1 (2) “Qualified amount” means the amount paid or incurred for
2 qualified education-related expenses, not to exceed the amount
3 specified in subdivision (c).

4 (3) (A) “Qualified education-related expenses” means the
5 kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks
6 and school supplies, including, but not limited to, pens, paper,
7 pencils, notebooks, calculators, and rulers; the rental or purchase
8 of educational equipment required for classes during the regular
9 schoolday; school uniforms that are not part of a cocurricular
10 activity; computers, computer hardware, and educational computer
11 software used to learn academic subjects; fees for college courses
12 at public institutions or independent nonprofit colleges, or for
13 summer school courses that satisfy high school graduation
14 requirements; psychoeducational diagnostic evaluations to assess
15 the cognitive and academic abilities of ~~pupils~~; *dependent children*;
16 special education and related services for ~~pupils~~ *dependent children*
17 who have an individualized education program or its equivalent;
18 out-of-school enrichment programs, tutoring, and summer programs
19 that are academic in nature; and public transportation or third-party
20 transportation expenses for traveling directly to and from school.

21 (B) “Qualified education-related expenses” shall not include
22 any expenses for the items described in subparagraph (A) that also
23 are used in a trade or business.

24 (4) “Qualified taxpayer” means a parent or legal guardian of a
25 ~~full-time pupil who is under 21 years of age at the close of the~~
26 ~~school year~~ *one or more dependent children who meets both meet*
27 *all of the following requirements:*

28 (A) Both the ~~pupil~~ *dependent children* and the parent or guardian
29 reside in California when the qualified education-related expenses
30 are paid or incurred.

31 (B) (i) The household income does not exceed 250 percent of
32 the federal Income Eligibility Guidelines published by the Food
33 and Nutrition Service of the United States Department of
34 Agriculture for use in determining eligibility for reduced price
35 meals.

36 (ii) ~~Household income~~ “*Household income*” means *adjusted*
37 *gross income* as defined in Section ~~61~~ 62 of the Internal Revenue
38 Code.

39 (c) The total deduction allowed under this section to a qualified
40 taxpayer shall not exceed two thousand five hundred dollars

1 (\$2,500) in a taxable year. If more than one qualified taxpayer may
2 be allowed this deduction for a dependent ~~child~~, *children, including*
3 *a qualified taxpayer filing a joint return*, the sum of all deductions
4 allowed under this section for ~~that those~~ dependent ~~child~~ *children*
5 shall not exceed two thousand five hundred dollars (\$2,500) in a
6 taxable year.

7 (d) (1) The Franchise Tax Board may prescribe rules,
8 guidelines, or procedures necessary or appropriate to carry out the
9 purposes of this section.

10 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code shall not apply to
12 any standard, criterion, procedure, determination, rule, notice, or
13 guideline established or issued by the Franchise Tax Board
14 pursuant to this section.

15 (e) This section shall remain in effect only until December 1,
16 2021, and as of that date is repealed.

17 SEC. 3. Section 17072 of the Revenue and Taxation Code is
18 amended to read:

19 17072. (a) Section 62 of the Internal Revenue Code, relating
20 to adjusted gross income defined, shall apply, except as otherwise
21 provided.

22 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
23 to certain expenses of elementary and secondary school teachers,
24 shall not apply.

25 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
26 attorneys fees relating to awards to whistleblowers, shall not apply.

27 (d) Section 62(a) of the Internal Revenue Code is modified to
28 provide that the deduction under Section 17052.5 shall be allowed
29 in determining adjusted gross income.

30 SEC. 4. It is the intent of the Legislature to make the findings
31 required by Section 41 of the Revenue and Taxation Code.

32 SEC. 5. This act provides for a tax levy within the meaning of
33 Article IV of the Constitution and shall go into immediate effect.