Date of Hearing: March 24, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 1282 (Jeff Gonzalez) – As Introduced February 21, 2025

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Personal Income Tax Law: credits: medical expenses

SUMMARY: Authorizes a deduction equal to the "out-of-pocket medical costs" paid or incurred by the taxpayer. Specifically, **this bill**:

1) Authorizes, under the Personal Income Tax (PIT) Law and for taxable years beginning on or after January 1, 2025, and before January 1, 2030, a deduction not exceeding $5,000 for "out-of-pocket medical costs" paid or incurred by the taxpayer during the taxable year.

2) Defines "out-of-pocket medical costs" as costs for medical care paid by the taxpayer that are not covered by insurance, recovered, or reimbursed.

3) Requires that any deduction otherwise allowed under the PIT Law related to out-of-pocket medical costs must be reduced by the amount deducted pursuant to this bill.

4) Finds and declares, for the purposes of complying with Revenue and Taxation Code (R&TC) Section 41, that the goal, purpose, and objective of this bill is to provide taxpayers with an annual reprieve from the rising costs of health care within the state, the fulfillment of which may be measured by the Legislature based on the number of taxpayers that are allowed the deduction, and the average dollar value of those deductions. The Franchise Tax Board (FTB) must report this information to the Legislature annually beginning on December 1, 2026, and this bill treats this information as an exception to the general prohibition on releasing personal identifying taxpayer information.

5) Repeals this bill on December 1, 2030.

6) Takes immediate effect as a tax levy.

EXISTING LAW:

1) Provides that gross income includes all income from whatever source derived, unless specifically excluded. (Internal Revenue Code (IRC) Section 61 and R&TC Section 17071.)

2) Authorizes a deduction for uncompensated eligible medical care expenses paid during the taxable year that exceed 7.5% of a taxpayer's federal adjusted gross income. (IRC Section 213 and R&TC Section 17241.)

FISCAL EFFECT: The FTB estimates that this bill would result in a revenue loss of $45 million in the 2025-26 fiscal year (FY), $29 million in FY 2026-27, and $30 million in FY 2027-28.

COMMENTS:

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

   California has the highest cost of living in the nation. While this bill does not solve that overarching problem, it does provide financial assistance to those who need it most. The existing deduction is not sufficient for protecting the most financially vulnerable families that are being burdened with medical costs. AB 1282 is the right thing to do as it provides additional financial security and stability to our most disadvantaged communities and it helps provide continued access to much needed medical care and treatment.

2) The California Federation of Teachers (CFT), writing in opposition to this bill, states, in part:

   California voters secured funding for public education via Proposition 98, which provides funding to our TK-12 schools and Community Colleges from revenues of the General Fund. Specifically, public education is funded mainly by the income tax, corporate income tax, sales and use tax, and property taxes. Tax credits, exemptions, and other expenditures however, remove funding from public education. For every dollar that is provided in tax expenditures, approximately 40 cents of each dollar comes out of California's classrooms. For this reason, CFT opposes tax expenditures.

3) Committee Staff Comments:

   a) *The Tax Cuts and Jobs Act (TCJA)*: In 2017, Congress authorized the TCJA (Public Law 115-97), which restructured various provisions of federal tax law. Among those changes, the TCJA suspended the application of various miscellaneous itemized deductions. These deductions were historically limited based on a taxpayer's adjusted gross income. Specifically, taxpayers could take certain miscellaneous deductions if they itemized their return, and if the value of those miscellaneous deductions was greater than 2% of the taxpayer's federal AGI. California generally does not conform to the TCJA, and the 2% limitation on the application of miscellaneous itemized deductions is still operative in state tax law.

   b) *This bill*: As currently drafted, this bill would authorize a new miscellaneous itemized deduction for amounts of out-of-pocket medical costs paid or incurred by a taxpayer, capped at $5,000. California still authorizes miscellaneous itemized deductions if they exceed 2% of a taxpayer's federal AGI. Thus, this bill's deduction would, for the first $5,000 of eligible costs, be allowed only to the extent that those costs exceed 2% of a taxpayer's federal AGI. Any remaining eligible expenses would be subject to the medical and dental expenses deduction, and deducted amounts would need to exceed 7.5% of a taxpayer's federal AGI. The author may wish to consider amending this bill if this is not the intent.

      The definition of "out-of-pocket medical costs" makes costs paid or incurred by the taxpayer for medical care eligible for deduction under this bill. The type of medical care, however, is not defined. For instance, as currently drafted, any cost for medical care could be deducted, including insurance costs, transportation, and potentially voluntary procedures. The author and Committee may wish to specify what type of medical care qualifies for this bill's deduction.

Oftentimes, tax law will prescribe certain values, such as an amount of credit and income limitation to qualify. In these circumstances, tax law generally provides for different amounts for single filers relative to joint filers, heads of household, and surviving spouses. As currently drafted, this bill would limit the maximum amount of deduction to $5,000, without consideration of filing status. If this is not the intent, the author and Committee may wish to amend this bill to provide a doubled maximum deduction amount for joint filers, heads of household, and surviving spouses.

The FTB is required to prepare and deliver a report to the Legislature by December 1, 2026, and annually on December 1 thereafter. If the author and Committee intend for the information reported by the FTB to be complete for the 2025 taxable year, the author and Committee may wish to delay the reporting requirement to May 2027.

Committee staff notes that the author may wish to delete the term "out-of-pocket" as part of the medical cost description, as this language is unnecessary.

c) *Proposition 98*: In 1988, California voters approved Proposition 98 (Prop. 98), which guarantees a certain level of educational funding for schools and community colleges based on certain calculations that vary with General Fund revenues and changes in per capita personal income. Three types of calculations, or tests, are stipulated in the law, and these tests impact the overall amount of revenue reserved for schools in any given year. In Test 1 years, the amount guaranteed pursuant to Prop. 98 is approximately 40% of General Fund revenues. Thus, any one dollar of General Fund revenue lost corresponds to a 40-cent decrease in the Prop. 98 guarantee[1]. According to the Legislative Analyst's Office (LAO) in its presentation to the Senate Budget and Fiscal Review Subcommittee on Education on February 27, 2025, Test 1 remains operative for the 2025-26 FY.

d) *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 their enactment, in the form of forgone revenues. This bill authorizes an itemized deduction for certain medical costs paid or incurred by a taxpayer, as limited.

e) *Committee policy on tax expenditures*: SB 1335 (Leno), Chapter 845, Statutes of 2014, added R&TC Section 41, recognizing that the Legislature should apply the same level of review used for government expenditure 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

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[1] *Proposition 98 and K-12 Education, The 2024-25 Budget*, LAO (February 15, 2024). https://lao.ca.gov/Publications/Report/4839#:~:text=Proposition%2098%20(1988)%20sets%20aside,23%20through%202024%E2%80%9125%20period, accessed March 2025.

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.[2] 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 this Committee's policy on tax expenditures.

f) *Previous legislation*:

i) AB 243 (Choi), of the 2021-22 Legislative Session, would have, under the PIT Law, reduced the percentage threshold that medical and dental expenses must exceed to be deductible from 7.5% to 4% of federal AGI. AB 243 was held on the Assembly Appropriations Committee's Suspense File.

ii) AB 782 (Acosta), of the 2017-18 Legislative Session, would have, under the PIT law, made the itemized deduction for certain medical expenses a deduction from gross income instead. AB 782 failed passage in this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

California Federation of Teachers

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[2] 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.