BILL ANALYSIS

Analyst :Deborah Barrett
Work Phone: 845-4301

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	**Steinberg**	**SB 1502**

SUBJECT

ALS/Lou Gehrig's Disease Research Fund

SUMMARY

This bill would add the ALS/Lou Gehrig's Disease Research Fund to the personal income tax (PIT) return as a voluntary contribution fund.

PURPOSE OF BILL

According to the language of the bill, the purpose of this bill is to help fund research relating to the cause, cure, and prevention of ALS.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2009, and would apply to tax returns for taxable year 2008 filed on or after January 1, 2009.

ANALYSIS

STATE LAW

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their PIT returns to any of the 11 voluntary contribution funds (VCFs) listed on the return.

With the following exceptions, VCFs remain on the PIT return until they are either repealed or fail to meet their minimum contribution amount.

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Foundation Memorial Fund, each VCF must meet an initial minimum contribution amount of $250,000.
- Except for the California Fund for Senior Citizens, the required minimum contribution amount is adjusted annually for inflation for each VCF.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount for the next calendar year for the VCF to remain on the PIT return for that calendar year, and

Brian Putler, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 8/22/08

2. Whether estimated contributions to the VCF during the current calendar year will be less than the minimum contribution amount for that calendar year.

FTB is also required to notify the sponsors of certain specified funds in writing of the minimum contribution amount required for the next calendar year.

If FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

General voluntary contribution provisions specify the following for all VCFs:

- Any contribution amounts designated prior to a fund's repeal must continue to be transferred and disbursed to that voluntary contribution fund.
- If the designee is unspecified, the contribution amount is transferred to the General Fund after reimbursing costs incurred by the FTB.
- If an individual designates contributions to more than one fund, and the actual amount available is less than the total amount contributed, the contribution would be allocated on a pro rata basis to the designated funds.

The general provisions also provide a formal queuing process for adding new contingent voluntary contribution funds to the tax return. New contingent funds are defined as funds that include language specifying that the fund may not be added to the return until another fund is removed. Upon enactment, new contingent funds are only added to the tax return when an existing fund is removed or when FTB determines space exists on the income tax return.

THIS BILL

This bill would establish the ALS/Lou Gehrig's Disease Research Fund (Fund), and add it to the PIT return as a voluntary contribution fund. Taxpayers would be able to designate their own funds, not tax liability, for contribution to the Fund on their PIT returns in full dollar amounts of $1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the original return for the taxable year and, once made, are irrevocable. A deduction, subject to the itemized deduction rules applicable to individuals, would be allowed for a contribution made pursuant to this bill.

This bill would specify that if the taxpayer's payments and credits reported on the PIT return fail to exceed the tax liability, the designation on the return would be treated as if no designation has been made.

This bill would require Franchise Tax Board (FTB), when another voluntary contribution fund is removed from the return, to revise the tax return to include a designation space for the Fund. The bill provides language that the Legislature intends the Fund to appear on the personal income tax return as soon as possible.

Beginning with contributions made in the first calendar year the fund appears on the return, this bill would require the Fund to meet a minimum contribution amount for each calendar year. The "minimum contribution amount for a calendar year" is defined as $250,000 for contributions made in the second calendar year the fund appears on the return or an amount adjusted for inflation for contributions made in subsequent years. The law authorizing designations to this fund would be repealed if contributions made under this bill fail to meet the minimum contribution amount.

This bill would require FTB to do the following by September 1 of the second calendar year the fund appears on the return, and by September 1 of each subsequent calendar year that the Fund appears on the tax return:

- Determine the minimum contribution amount required to be received during the next calendar year for the fund to remain on the return.
- Notify the State Department of Public Health in writing of the minimum contribution amount required for the next calendar year.
- Determine if the amount of contributions estimated to be received during the current calendar year will equal or exceed the minimum contribution amount required for that calendar year.

Beginning with the third calendar year that the fund appears on the return, FTB would be required to adjust the minimum contribution amount as indexed for inflation by September 1 of each calendar year.

If the Fund first appeared on the 2008 PIT return, it would remain on the PIT return until January 1, 2013, in this case the 2012 PIT return, unless a later enacted statute deletes or extends that date, and provided that it meets the annual minimum contribution requirement.

This bill would require the State Controller to transfer money designated for the Fund by taxpayers from the PIT Fund to the Lou Gehrig's Disease Research Fund. Upon appropriation by the Legislature, the monies from this fund would be allocated as follows:

1. FTB and the Controller for reimbursement of costs incurred in administering the Fund.
2. The Department of Public Health for allocation to The Amyotrophic Lateral Sclerosis Association, an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, to provide grants to research the prevention, cure, screening, and treatment of ALS, and Department of Public Health for reimbursement of administration costs incurred for administering the grant program.

LEGISLATIVE HISTORY

AB 1812 (Arambula, Ch. 160, Stats. 2008) extends the repeal date on the California Firefighters Memorial Fund and the California Peace Officer Memorial Fund.

AB 1935 (Fuller, 2008) would add the California Ovarian Cancer Research Fund for taxpayers to designate a contribution on the PIT return. AB 1935 was sent to enrollment on August 7, 2008.

AB 2291 (Mendoza, 2008) would add the Low Cost Spay-Neuter Fund for taxpayers to designate a contribution on the PIT return. AB 2291 was sent to enrollment on August 19, 2008..

AB 2518 (Torrico, 2008) would add the Northern California Cancer Research Fund for taxpayers to designate a contribution on the PIT return. AB 2518 is pending a Senate floor vote.

SB 1249 (Alquist, Ch. 645, Stats. 2006) added general provisions for all existing VCF's by changing the application of the minimum contribution amounts for specified funds and the related requirements for FTB to calculate the required minimum contribution amounts and notify funds of such amounts.

PROGRAM BACKGROUND

Eleven voluntary contribution funds appeared on the 2007 California personal income tax return. Total contributions to these funds have varied from approximately $3.4 million for the 1989 taxable year to approximately $4.2 million[1] for the 2006 taxable year.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and *New York* allow for taxpayers to make charitable contribution designations on the personal income tax returns.

Of these states, *Illinois, Massachusetts, and Michigan* provide a Military Family Relief Fund designation on their personal income tax returns.

Illinois and *Michigan* requires a minimum contribution amount of $100,000 for certain funds, and have various repeal dates.

Massachusetts, Minnesota, and *New York* do not require a minimum contribution amount, and do not specify repeal dates.

The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

[1] Amount contributed through December 27, 2007.

ECONOMIC IMPACT

Based on data and assumptions discussed below, the revenue loss from this bill would be as follows:

Estimated Revenue Impact of SB 1502 Effective On or After January 1, 2009 Assumed Enactment Date After June 30, 2008			
Fiscal Year	2008/09	2009/10	2010/11
Revenue Loss	N/A	-<$150,000	-<$150,000

Estimates assume the fund is officially designated for returns starting with the 2008 tax year and the minimum level of contribution ($200,000) is achieved each year. This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

<u>Revenue Discussion</u>

The revenue impact of this bill would be determined by the amount of contributions to the ALS Research Fund and the subsequent itemized deduction of such charitable contribution.

For this estimate, the following assumptions are made:

1. The fund would be added to the 2008 return,
2. The minimum contribution amount ($200,000) would be achieved each year, and
3. An itemized deduction would be allowed and claimed for each contribution.

By applying an average marginal tax rate of 6%, the estimated revenue loss of this bill would be $12,000 annually ($200,000 x 6% = $12,000). Because contributions reported on the 2008 tax return are made during the 2009 calendar year, the revenue impact would not occur until fiscal year 2009/10.

APPOINTMENT

None.

SUPPORT/OPPOSITION

As reflected in the Assembly Committee on Revenue and Taxation Bill Analysis date June 25, 2008.

Support: The California ALS Advocacy Committee

Opposition: None on File

VOTES

Assembly Floor – Ayes: 74, Noes: 1
Senate Floor – Ayes: 33, Noes: 5
Concurrence – Ayes: 31, Noes: 3

LEGISLATIVE STAFF CONTACT

Deborah Barrett
Franchise Tax Board
(916) 845-4301
deborah.barrett@ftb.ca.gov

Patrice Gau-Johnson for
Brian Putler
Franchise Tax Board
(916) 845-5521
Patrice.Gau-Johnson@ftb.ca.gov