

ANALYSIS OF ORIGINAL BILL

Author: Olsen, et al. Analyst: Jessica Deitchman Bill Number: AB 1161
 See Legislative
 Related Bills: History Telephone: 845-6310 Introduced Date: February 27, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Contribution to California Preschool Investment Fund Credit
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SUMMARY

This bill would establish an income tax credit under the Personal Income Tax Law (PITL) and Corporation Income Tax Law (CTL) for cash contributions made to the California Preschool Investment Fund.

This analysis only addresses the provisions of the bill that impact the department’s programs and operations. This analysis does not discuss the provisions administered by the Department of Education.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to generate an additional source of funding to expand the number of preschool slots and subsidies available to parents seeking prekindergarten child care assistance by offering an income tax credit.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2016, and specifically operative for taxable years beginning on or after January 1, 2016, and before January 1, 2020.

FEDERAL/STATE LAW

Existing federal and state laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current state law allows a tax credit for a specified percentage of cash contributions made to the College Access Credit Fund upon the receipt of certification from the California Educational Facilities Authority (Authority). The specified percentage is 60 percent of the amount contributed that is certified and allocated for the 2014 taxable year. The specified percentage declines by 5 percent for each of the remaining two years the credit is available.

Board Position:	Executive Officer	Date
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The maximum aggregate amount of credit that can be allocated and certified by the Authority for each calendar year is \$500 million plus any previously unallocated and uncertified amounts. Unused credits can be carried forward to the subsequent six years. This credit precludes any deductions for amounts included in the calculation of the credit.

Federal law lacks a credit similar to the one this bill would create.

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Itemized deductions may be limited for high-income taxpayers.

Federal and state laws generally allow deductions from income for charitable contributions. The federal definition of charitable contributions includes, among other entities, a State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

THIS BILL

This bill would create the California Preschool Investment Fund¹ in the state treasury.

For taxable years beginning on or after January 1, 2016, and before January 1, 2020, this bill would, under both the PITL and CTL, provide a tax credit equal to 40 percent of the amount contributed during the taxable year to the California Preschool Investment Fund.

The credit would be allowed to taxpayers that received a receipt for their contribution to the California Preschool Investment Fund from the State Department of Education (Department of Education). Taxpayers would be required to provide the receipt to the Franchise Tax Board (FTB) upon request.

This credit must be claimed on an original, timely filed return.

The aggregate amount of credit (cap) that could be allocated by the Department of Education for each calendar year would be \$250 million.

The Department of Education would be required to do all of the following:

- Allocate tax credits to taxpayers on a first come, first served basis.
- Establish a procedure for taxpayers to contribute to the California Preschool Investment Fund and obtain receipt for the credit.
- Notify the FTB of the credits allocated on at least a monthly basis.

¹ Created by Section 8239.8 of the Education Code.

The FTB and the Department of Education would be required to place this information on their respective web sites together with the amount of remaining credits, and update the information at least every calendar quarter, including information as to whether the \$250 million cap may be reached by the end of the calendar quarter.

Amounts contributed to the California Preschool Investment Fund would first be allocated to reimburse the General Fund for the aggregate amount of the credit allowed. Then, upon appropriation by the Legislature, the funds would be allocated to the FTB and the Department of Education to reimburse all administrative costs incurred in connection with this credit and to the Department of Education for the purposes of funding preschool programs.

The FTB may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purpose of the credit. These rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

A deduction otherwise allowed under this bill for any amount contributed by the taxpayer upon which the credit is based would be reduced by the amount of the credit allowed.

Any unused credit may be carried over to reduce the tax for the following five years if necessary, until the credit is exhausted.

The credit provisions would be repealed on December 1, 2020.

IMPLEMENTATION CONSIDERATIONS

Because the Department of Education would be required to allocate and track the credit, implementing this bill would not significantly impact the department.

LEGISLATIVE HISTORY

AB 1261 and AB 2107 (Gorell, et al., 2013/2014) substantially similar to this bill, would have created an income tax credit for cash contributions made to the California Preschool Investment Fund. AB 1261 was held in the Senate Governance and Finance Committee and AB 2107 was held in the Assembly Appropriations Committee.

AB 798 (De Leon, Chapter 367, Statutes of 2014) created the College Access Tax Credit, an income tax credit for cash contributions made to an education special fund with an aggregate credit cap of \$500 million per calendar year.

AB 279 (Duvall, 2009/2010) would have created an income tax credit for contributions to a scholarship granting organization. AB 279 failed passage out of the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack a credit comparable to the credit allowed by this bill. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1161* As Introduced February 27, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
- \$0.7	- \$23	- \$30

*The table above shows the impact on income and corporation tax revenue. This bill would require funds to be transferred from the California Preschool Investment Fund to the General Fund so that the net impact of Preschool Investment Fund Credits on the General Fund would be zero or a minimal gain due to timing and usage.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Based on California public school donation data from the Public Policy Institute, it is estimated that there would be \$194 million in preschool donations in 2016. This amount was then split between personal income and corporate donations based on ratios of 2012 return contribution data (90 percent PIT, 10 percent Corp) and grown² through 2019.

² Indexed using Department of Finance forecasts.

For each tax year it is estimated that there will be newly created donations to the preschool fund estimated at 30 percent of current personal income and corporate donations. Additionally, one percent of total California personal income and corporate donations would be diverted to the newly designated fund.

At the 40 percent credit rate, the \$80 million estimate of qualified donations would generate \$32 million in total credits for the 2016 tax year, \$29 million in PITL and \$3 million in CTL credits. It is expected that 70 percent of the credit, or \$22 million, would be used in the year generated with almost all of the remainder being used in the following two years.

Taxpayers that would have otherwise claimed the contribution to the fund as a deduction are required to reduce their contribution deduction by 40 percent (the credit amount). The revenue impact of this adjustment is estimated to be \$550,000 (\$470,000 PITL and \$80,000 CTL).

The tax year estimates were converted to fiscal year estimates and are reflected in the table above.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Supporters could argue that this bill would encourage more taxpayers to contribute to the California Preschool Investment Fund and expand the state support available to parents seeking prekindergarten child care assistance.

Opponents: Some could argue that using a tax credit to expand state support of prekindergarten child care assistance, while a worthy cause, would provide a funding advantage over other worthy state services that rely on the budget process for funding.

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