

## Franchise Tax Board

## SUMMARY ANALYSIS OF ORIGINAL BILL

Author: Melendez Analyst: Davi Milam Bill Number: AB 1304  
Related Bills: See Prior Telephone: 845-2551 Introduced Date: April 17, 2017  
Analysis Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Exclusion/ CalKIDS Savings Account Deposits

### SUMMARY

The bill would create the CalKIDS Savings Trust Fund under the Welfare and Institutions Code, and under the Personal Income Tax Law (PITL), would exclude from gross income amounts deposited into a CalKIDS savings account.

This analysis only addresses the provisions of the bill that would impact the department's programs and operations.

### RECOMMENDATION – NO POSITION

### SUMMARY OF AMENDMENTS

The April 17, 2017, amendments eliminated provisions related to the creation of the CalKIDS Savings Account under the Education Code and replaced them with similar provisions under the Welfare and Institutions Code, as discussed below.

As a result of the amendments, the "This Bill" and "Policy Concerns" sections have been revised. The "Implementation Considerations" section has been updated to clarify one implementation consideration. The remainder of the department's analysis of the bill as introduced February 17, 2017, still applies. The "Fiscal Impact" and "Economic Impact" sections have been restated for convenience.

### THIS BILL

This bill would, under the Welfare and Institutions Code, create the CalKIDS Savings Trust administered by the State Department of Social Services, and the CalKIDS Savings Trust Fund, a savings program administered by the State Treasury through CalKIDS savings accounts, to help families save for the costs of child care. Eligible child care costs would include, but not be limited to:

- The costs of before and after school care.
- The costs of attendance at a preschool or nursery school.
- The costs of attendance at an extended day program.
- The actual amounts paid or incurred to an au pair service or nanny service for actual care of the dependent.
- The costs of a babysitter for care of a dependent in or out of the dependent's home.
- The costs of attendance at a summer day camp for a dependent under 13 years of age.

This bill would, under the PITL, allow for taxable years beginning on or after January 1, 2018, an exclusion from gross income for moneys deposited into a CalKIDS savings account pursuant to the savings program established by this bill.

## **IMPLEMENTATION CONSIDERATIONS**

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill lacks administrative details necessary to administer the bill's provisions. For example:

- The bill fails to specify the amount of the exclusion, the maximum amount that may be deposited into a CalKIDS savings account, or who may contribute to the account.
- The bill lacks a reporting mechanism for the department to verify the amount of the exclusion.
- The bill currently uses the phrase "gross income does not include" that relates to an item of income received by a taxpayer, rather than an item paid by a taxpayer. If the author intends that the person depositing amounts into the account receive a reduction in taxable income, the bill should be amended to provide a "deduction" from gross income for such deposits.
- Because the bill fails to specify otherwise, earnings with respect to amounts deposited would be subject to income tax in the year received or credited to the account.

For clarity and ease of administration, it is recommended that the bill be amended.

## **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**

A revenue estimate cannot be completed until the implementation considerations discussed above have been resolved.

## **POLICY CONCERNS**

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

This bill fails to limit the amount that may be deposited into a CalKIDS account. Tax benefits that could potentially be quite costly are sometimes limited, for example, either on a per-account, per-beneficiary, or per-taxpayer basis.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same moneys deposited into a CalKIDS account, specifically the exclusion for amounts deposited and then a child care credit or deduction for amounts paid for child care from the account.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of a tax benefit by the Legislature.

### **LEGISLATIVE STAFF CONTACT**

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