



Summary Analysis of Amended Bill

Author: Caballero, et al.

Sponsor:

Bill Number: AB 2023

Analyst: Davi Milam

Phone: (916) 845-2551

Amended: May 25, 2018, and
May 29, 2018

Attorney: Bruce Langston

Related Bills: See Prior Analysis

Subject: Child & Dependent Care Expenses Credit/ Refundable

Summary

This bill, under the Personal Income Tax Law (PITL), would make the Child and Dependent Care Expenses Credit refundable.

Recommendation – No position.

Summary of Amendments

The May 25, 2018, amendments added coauthors, and modified the refund provision by capping the refund, providing a continuous appropriation, and adding a sunset date.

The May 29, 2018, amendments removed the sunset date and made the refund subject to an annual appropriation.

As a result of the amendments, a new implementation concern was identified in addition to the implementation concerns discussed in the department's analysis of the bill as introduced February 5, 2018. Except for the "This Bill," "Implementation Considerations," "Economic Impact," and "Support/Opposition" sections, the remainder of the department's analysis of the bill as introduced February 5, 2018, still applies. The "Program Background," "Fiscal Impact," and "Policy Concerns" sections have been restated below for convenience. The "Support/Opposition" section has been updated to reflect recently updated information.

This Bill

For taxable years beginning on or after January 1, 2019, this bill, under the PITL, would provide that if the amount of allowable Child and Dependent Care Expenses Credit exceeds the tax liability for the taxable year, the excess would be credited against other amounts due, if any, and the balance, if any, subject to the limitations below, and upon appropriation by the Legislature, would be paid to the taxpayer.

Under the terms of this bill, the amount paid to the taxpayer would be limited to:

- Two hundred fifty dollars (\$250) for one qualifying individual.
- Five hundred dollars (\$500) for two or more qualifying individuals.

Implementation Considerations

Implementing this bill would require changes to existing tax forms and instructions, robust education and outreach, and substantial changes to information systems to limit improper payments.

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. Refunds in excess of the appropriation would be denied. This concern could be alleviated by providing a continuous appropriation.

Capping the refundable portion of the Child and Dependent Care Expenses Credit rather than the credit itself would add complexity for the taxpayer and the department. For clarity and ease of administration, it is recommended that the bill be amended.

Program Background

Legislative Analyst Office (LAO) Report

On April 7, 2016, the LAO issued a report titled, “Options for Modifying the State Child Care Tax Credit.” This report discussed the option of restoring refundability to the State’s Child Care Tax Credit (referred to as “Option 1”). The report also discussed the potential for improper claims, including administrative methods to limit these claims.¹

Fiscal Impact

The department’s costs to implement this bill have yet to be determined, but are anticipated to be significant. 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 2023 as Amended on May 29, 2018
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue ²
2018-2019	-\$33
2019-2020	-\$55
2020-2021	-\$55

¹ [LAO Report - Options for Modifying the State Child Care Tax Credit](#).

² This estimate assumes appropriation by the legislature.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Using 2016 Franchise Tax Board Child and Dependent Care Expenses Credit data, it is estimated taxpayers generated approximately \$70 million in Child and Dependent Care Expenses Credit. Taxpayers applied \$31 million of the credit against their tax liabilities, leaving \$39 million in nonrefundable credits unused. The amount of refundable credit, the lesser of either \$250 or \$500 as specified in the bill or the amount of credit available, was calculated resulting in estimated tax refunds of \$34 million. The estimated credit refunded is then increased to \$55 million, to account for additional qualifying taxpayers that would file returns to claim the refundable credit. This amount was then adjusted to reflect changes over time, resulting in an estimated revenue loss from the refundable credit of \$56 million in 2019.

The tax-year estimates are converted to fiscal-year estimates and then rounded to arrive at the amounts shown in the above table.

Support/Opposition³

Support: Children's Defense Fund – California (Sponsor), American Academy of Pediatrics, California, Asset Building Strategies, California Child Care Resource and Referral Network (Sponsor), California Alternative Payment Program Association, California Asset Building Coalition, California Catholic Conference, California Food Policy Advocate, Coalition of California Welfare Rights Organizations, Rise Together.

Opposition: None provided.

Policy Concerns

The department is concerned that another refundable credit could increase the trend in refund fraud and identity theft. Historically, both the Internal Revenue Service and the Franchise Tax Board have experienced fraud and improper claims with refundable credits. These concerns are heightened because if a refund is determined to be fraudulent; the refund commonly cannot be recovered.

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

Davi Milam
Legislative Analyst, FTB
(916) 845-2551
davi.milam@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov

³ As noted in the Assembly Revenue and Taxation Committee analysis dated March 15, 2018.