



Analysis of Original Bill

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Sponsor:

Bill Number: AB 1109

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Related Bills: See Legislative
History

Subject: Contributions to California Preschool Investment Fund Credit

Summary

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would create a credit for cash contributions to the California Preschool Investment Fund that would be created under the Education Code (EC).

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

Recommendation – No position.

Reason for the Bill

The reason for the bill is to generate additional 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, 2020, and specifically operative for taxable years beginning on or after January 1, 2021, and before January 1, 2025.

Federal/State Law

Current state law allows a tax credit equal to 50 percent of cash contributions made to the College Access Credit Fund upon the receipt of certification from the California Educational Facilities Authority (Authority).

The maximum aggregate amount of credit that can be allocated and certified by the Authority for each calendar year is \$500 million. 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 taxes¹, 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

For taxable years beginning on or after January 1, 2021, and before January 1, 2025, this bill, under the PIT and the CTL, would allow a tax credit equal to 40 percent of the amount contributed during the taxable year to the California Preschool Investment Fund.²

The credit would be allowed to taxpayers who 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 bill also would provide:

- The credit must be claimed on a timely filed original return.
- A deduction otherwise allowed for any amount contributed by the taxpayer upon which the credit is based would be reduced by the amount of the credit allowed.
- Unused credits could be carried over for five years or until exhausted.

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

¹ Starting in taxable year 2018, federal law limits to \$10,000 the total deduction for state and local taxes, including income taxes (or general sales taxes, if elected instead of income taxes), real property taxes, and personal property taxes).

² Created by Section 8239.8 of the EC.

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 a receipt for the credit.
- Notify the FTB of the credits allocated on at least a monthly basis.

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 would be allowed to 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.

The credit would be repealed by its own terms on December 1, 2025.

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 347 (Choi & Voepel, 2019/2020), substantially similar to this bill, would create a credit for cash contributions to the California Preschool Investment Fund. AB 347 is pending before the Assembly Revenue and Taxation Committee.

AB 490 (Quirk-Silva, Chapter 527, Statutes of 2017) extended the College Access Tax Credit to taxable years beginning on or after January 1, 2018, and before January 1, 2023.

AB 1161 (Olsen, et al., 2015/2016), substantially similar to this bill, would have created an income tax credit for cash contributions made to the California Preschool Investment Fund. AB 1161 failed to pass by the constitutional deadline.

SB 81 (Committee on Budget and Fiscal Review, Chapter 22, Statutes of 2015) extended the College Access Tax Credit to taxable years beginning on or after January 1, 2017, and before January 1, 2018.

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 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 Committee AB 2107 failed to pass by the constitutional deadline.

Other States' Information

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack a credit comparable to the credit allowed by this bill. However, *Florida* corporation tax law allows a tax credit for cash contributions made to a nonprofit scholarship funding organization providing private-school scholarships for certain students in grades Kindergarten through 12. 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.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB1109* as Introduced February 21, 2019
Assumed Enactment after June 30, 2019

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	-\$0.00
2020-2021	-\$0.60
2021-2022	-\$12.0

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.

*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.

Revenue Discussion

Based on California public school donation data from the Public Policy Institute and research on public and private school donations. It is estimated that \$38 million of current school donations would be diverted to the newly designated California Preschool Investment Fund in 2021. It is further estimated that \$32 million of new donations would be made to the California Preschool Investment Fund, which would result in total contributions of \$70 million in 2021.

Applying the 40 percent credit would result in total credits generated of \$28 million in 2021. It is estimated that 90 percent, or \$25 million, of the credits would be generated by personal income taxpayers, and the remaining 10 percent, or \$3 million, would be generated by corporations.

Based on FTB data, it is estimated that 65 percent of taxpayers, or \$18 million, would have a tax liability to offset with the credit. Of those with a tax liability it is estimated that 70 percent, or \$12 million, would be used in the year generated with most of the remainder being used in the following two years.

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

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