STATE OF CALIFORNIA
Franchise Tax Board

Analysis of Original Bill

Author: Gray	Sponsor:	Bill Number: AB 1606
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Attorney: Shane Hofeling	Related Bills: See Legislative History	

Subject: Disallow Wagering Loss Deduction/Medical Endowment Fund

Summary

Under the Personal Income Tax Law (PITL), this bill would disallow the deduction of wagering losses and under the Education Code would require an estimate of the resulting revenue to be transferred from the General Fund to the University of California, San Francisco, and San Joaquin Valley Regional Campus Medical Education Endowment Fund.

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 this bill is provide residents of the San Joaquin Valley access to trained medical providers for their immediate health care needs.

Effective/Operative Date

As an urgency measure, this bill would be effective and operative immediately upon enactment and, with respect to the PITL provision, specifically operative for taxable years beginning on or after January 1, 2019.

Federal/State Law

Current federal and state law allows an itemized deduction for losses from wagering transactions to the extent of the gains from those transactions.

This Bill

Under the PITL, this bill would disallow a deduction for wagering losses for taxable years beginning on or after January 1, 2019.

Under the Education Code, this bill would require the State Controller to transfer from the General Fund to the University of California, San Francisco, and San Joaquin Valley Regional Campus Medical Education Endowment Fund an amount equal to the annual estimate of the revenues resulting from the disallowance of the wagering loss deduction until the amount of five hundred million dollars has been reached in the fund.

The Franchise Tax Board (FTB), in consultation with the Department of Finance (DOF), would be required to estimate and annually report to the State Controller the amount of revenue derived from the disallowance of the deduction.

Implementation Considerations

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

Based on the language, the Internal Revenue Code 165(d) deduction will still be disallowed after the $500 million limit would be reached. If the author's intent was to reinstate the deduction after the $500 million limit was reached, then the language will need to be amended.

It is unclear how professional gambling losses would be treated under this bill. For clarity and ease of administration, it is recommended that the bill be amended.

It is unclear when the FTB and the DOF would be required to deliver the annual estimate of the revenue attributable to the disallowance of the wagering loss deduction.

Legislative History

None.

Other States' Information

The states surveyed include *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Illinois does not allow a deduction for wagering losses.

Massachusetts taxpayers may deduct wagering losses to the extent of winnings, but only if the wagering activities of the taxpayer is a trade or business.

Michigan distinguishes between professional gamblers and casual gamblers. Professional gamblers engaged in the trade or business of gambling may deduct wagering losses as part of the calculation of gross income at the federal level. For professional gamblers, deducting losses reduces adjusted gross income, which flows through to the *Michigan* return. Casual gamblers may only deduct wagering losses at the federal level by itemizing, which does not flow through to the Michigan return.

Minnesota and *New York* allow taxpayers to deduct gambling losses to the extent of gambling winnings for that tax year.

For these states, no law requiring a transfer similar to the requirement under the Education Code that this bill would add was identified.

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 gain:

Estimated Revenue Impact of AB 1606 as Introduced on February 22, 2019
Assumed Enactment after June 30, 2019

($ in Millions)

Fiscal Year	Revenue
2019-2020	+$490
2020-2021	+$320
2021-2022	+$320

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

Based on federal data for taxable year 2016, approximately $20 billion in gambling losses were claimed on federal tax returns. It is estimated that 17 percent, or $3.4 billion, would be deducted by California residents. This amount was then adjusted to reflect changes in the economy over time, resulting in an estimated $3.6 billion in gambling losses in 2019. Applying an average tax rate of 8 percent results in an estimated $290 million revenue gain for taxable year 2019.

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

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