Date of Hearing: March 10, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 398 (Ahrens) – As Introduced February 4, 2025

$^{2}/_{3}$ vote. Fiscal committee.

SUBJECT: Personal income tax: Earned Income Tax Credit.

SUMMARY: Establishes, for taxable years beginning on or after January 1, 2025, a minimum credit amount of approximately $300 for taxpayers who claim the California Earned Income Tax Credit (CalEITC), as specified. Specifically, **this bill**:

1) Provides that, if the credit amount calculated for an eligible individual under the CalEITC, multiplied by the earned income tax credit adjustment factor, is less than $355, the individual is instead allowed a CalEITC of $355, multiplied by the earned income tax credit adjustment factor.

2) Provides, for taxable years beginning on or after January 1, 2026, that the CalEITC minimum amount is recomputed annually to adjust for inflation.

3) Provides that the CalEITC minimum amount shall be reduced by an amount determined by the Franchise Tax Board (FTB) for each $100 that the qualified individual's adjusted gross income or earned income, whichever is greater, exceeds the threshold amount so that the credit amount is phased out completely commensurate with the income limitations.

4) Provides that the threshold amount is as follows:

   a) For taxable years beginning on or after January 1, 2025, and before January 1, 2026, $15,000;

   b) For taxable years beginning on or after January 1, 2026, and before January 1, 2027, $20,000;

   c) For taxable years beginning on or after January 1, 2027, and before January 1, 2028, $28,000; and,

   d) For taxable years beginning on or after January 1, 2028, $28,000 plus an annual inflation adjustment.

5) Requires the FTB to separately state in its annual written report to the Legislature on the CalEITC all of the following:

   a) The number of tax returns claiming the expanded credit;

   b) The number of qualifying children under the expanded credit;

   c) The average credit amount on tax returns claiming the credit, and;

d) An estimate of the three data points listed above if the requirements for the credit had not been expanded.

EXISTING FEDERAL LAW:

1) Allows eligible individuals a refundable EITC. A refundable credit allows for the excess of the credit amount over the taxpayer's tax liability to be refunded to the taxpayer. The EITC is calculated as a percentage of the taxpayer's earned income and is phased out as income increases. For 2024, the EITC is available to individuals earning up to $18,591 and a family of four can earn up to $55,768. The federal credit rate varies from 7.65% to 45%, depending on the number of qualifying children. (Internal Revenue Code (IRC) Section 32.)

2) Defines an "eligible individual" as:

   a) Any individual who has a qualifying child for the taxable year; or,

   b) Any other individual who does not have a qualifying child for the taxable year, if they:

      i) Have attained the age of 25 but not attained the age of 65 before the close of the taxable year;

      ii) Have a principal place of abode in the United States for more than one-half the taxable year; and,

      iii) Are not a dependent of another taxpayer.

3) Requires an eligible individual (and spouse, if filing a joint return) to have a social security number (SSN) issued by the Social Security Administration that is valid for employment. Thus, a social security card stating "Not Valid for Employment" or a federal ITIN (Individual Taxpayer Identification Number) may not be used for the federal EITC. (IRC Section 32.)

4) Specifically excludes certain individuals from the definition of an eligible individual. Specifically, IRC Section 32(c)(1) excludes the following from the definition of an eligible individual:

   a) An individual who is a qualifying child of another taxpayer;

   b) U.S. citizens or residents living abroad and claiming benefits under IRC Section 911; and,

   c) Most nonresident aliens, unless they elect to be treated as U.S. residents for federal tax purposes.

5) Provides generally that a qualifying child must live with the eligible individual for more than one-half the taxable year in the United States, and must be under the age of 19, unless the child is a full-time student under age 24, or the child is permanently and totally disabled. (IRC Section 32.)

EXISTING STATE LAW:

1) Allows, with certain modifications, a refundable CalEITC based on the federal EITC amount determined in accordance with IRC Section 32. (Revenue & Taxation Code (R&TC) Section 17052.)

2) Provides that the amount of credit determined under IRC Section 32, as modified, shall be multiplied by an EITC adjustment factor for the taxable year, and that unless otherwise specified in the annual Budget Act, the EITC adjustment factor shall be 0%. (R&TC Section 17052(a)(2).)

3) Generally conforms, with modifications, to the federal definitions of an "eligible individual" and a "qualifying child". However, for taxable years beginning on or after January 1, 2018, the age limit for an eligible individual without a qualifying child is 18 years or older, rather than between the ages of 25 and 64 years. Additionally, starting in 2021, California expanded access to the CalEITC to filers with an ITIN, including undocumented workers. (R&TC Section 17052(p).)

FISCAL EFFECT: The FTB estimates General Fund revenue losses of $180 million in fiscal year (FY) 2025-26, $260 million in FY 2026-27, and $400 million in FY 2027-28.

COMMENTS:

1) The author has provided the following statement in support of this bill:

> AB 398 would establish a minimum California Earned Income Tax Credit (CalEITC) of $300 and put more money back into the pockets of those Californians struggling the most with soaring cost-of-living expenses. If enacted, it would serve to boost household incomes and enhance the economic security of CalEITC recipients, encourage more Californians to file their taxes, and support economic growth. We must put more money in the pockets of Californians to help make ends meet, and this proposal does exactly that by providing a $300 minimum CalEITC benefit.

2) The Prosper CA Coalition, sponsor of this bill, writes, in part:

> The CalEITC remains one of California's most effective tools for reducing poverty, advancing economic equity, and narrowing the racial wealth gap. It provides a refundable tax credit to families earning $31,950 or less annually and, unlike the federal EITC, extends eligibility to Individual Taxpayer Identification Number (ITIN) holders. According to the California Budget and Policy Center, 78% of CalEITC-eligible filers are people of color, 35% are immigrants, and more than 52% are women—making this credit a proven, impactful anti-racist policy. Aligning with the state's broader goals of poverty reduction, affordability, and inclusive economic opportunity, the CalEITC is a cost-effective, targeted solution to support Californians struggling with rising living expenses, including housing, childcare, and healthcare. AB 398 would ensure that this vital resource provides the meaningful support our most vulnerable communities need.

3) This bill is supported by the California Association of Food Banks, which notes, in part:

> The California Association of Food Banks leads the collective effort to end hunger in California. We know that programs like the CalETIC is one of our best programs to lift families out of poverty. At a time when 1 in 5 households, and 1 in 4 households with

children, are facing hunger, we must do all we can to ensure Californians can meet their basic needs… Raising the CalEITC minimum to $300 will not only enhance financial security for low-income, historically disenfranchised communities, but also improve the efficiency and reach of the program as a whole.

4) Committee Staff Comments:

   a) *Background on EITCs*: California and the federal government have adopted anti-poverty EITC programs for both adults and children in lower income working families. The programs' primary purpose is to lift people out of poverty and encourage labor market participation by providing additional tax benefits for those who earn wages or compensation from employment or entrepreneur business operations. The EITCs, unlike other anti-poverty programs, are administered through the tax system and require the filing of a tax return with the federal government and California to claim the credits. A persistent challenge with this mechanism, however, is that many eligible taxpayers do not earn enough to trigger the requirement to file their taxes and may not be aware that they are actually entitled to receive money from the government.

   b) *Federal EITC*: The Federal EITC depends on a recipient's earned income and phases in as a percentage of earned income (the "credit rate") until the credit amount reaches its maximum level. The EITC then remains at its maximum level over a subsequent range of earned income, between the "earned income amount" and the "phaseout amount threshold." Finally, the credit gradually decreases to zero at a fixed rate (the "phaseout rate") for each additional dollar of adjusted gross income (AGI) (or earned income, whichever is greater) above the phaseout amount threshold. The specific values of these EITC parameters (e.g., credit rate, earned income amount) vary depending on several factors, including the number of qualifying children a taxpayer has and the taxpayer's marital status.

   c) *CalEITC and related credits*: California created its own CalEITC at the state-level in 2015. To qualify for the CalEITC, taxpayers must:

      i) Have taxable earned income, which are W-2 wages, self-employment income, and other types of income with California withholdings;

      ii) Have a valid SSN or ITIN for all eligible persons;

      iii) Live in California for more than half the year; and,

      iv) Not use married/registered domestic partner (RDP) if filing separately unless an exception applies.

   California has created supplementary credits that use CalEITC eligibility as a starting point to provide additional resources to targeted populations. The Young Child Tax Credit (YCTC) is available for taxpayers with dependents under the age of six and the Former Foster Youth Tax Credit (FYTC) is available to current and former foster youth.

For 2024, the income limits and credit amounts for the Federal EITC, CalEITC, YCTC, and FYTC are as follows:[1]

Tax year 2024 maximum income and credit amounts for CalEITC and related tax credits

Number of qualifying children	CalEITC, YCTC, FYTC max income	CalEITC max credit	YCTC max credit	FYTC max credit*	Federal EITC max credit**
	(up to)	(up to)	(up to)	(up to)	(up to)
None	$31,950	$294	$0	$1,154	$632
1	$31,950	$1,958	$1,154	$1,154	$4,213
2	$31,950	$3,239	$1,154	$1,154	$6,960
3 or more	$31,950	$3,644	$1,154	$1,154	$7,830

d) *What does this bill do?* This bill replaces the existing CalEITC calculation in certain cases and instead establishes a minimum credit amount of approximately $300. The $355 amount contained in this bill is multiplied by the earned income tax credit adjustment factor, which has historically been 0.85. By guaranteeing a minimum credit amount that is more substantial than the minimum amounts received in prior years, the proponents of this bill argue that more individuals who are eligible for the CalEITC will file their taxes and claim the credits they are entitled to receive.

e) *Who benefits from this bill*? This bill would primarily benefit qualified low-income taxpayers who claim the CalEITC. Specifically, this bill would provide the greatest benefits to qualified low-income taxpayers who do not have dependents because the CalEITC amount is significantly increased when one or more dependents are claimed by the taxpayer. Using data from tax year 2020, the California Budget & Policy Center (CBPC) estimates that 74% of CalEITC beneficiaries are single filers without dependents and typical credit amounts range between $1 and $255 per year. Further, CBPC finds that 79% of CalEITC recipients – about 3.4 million households – get less than $200 for the credit.[2] CBPC estimates that nearly eight million Californians are eligible to benefit

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[1] *Eligibility and credit information – CalEITC*, Franchise Tax Board. https://www.ftb.ca.gov/about-ftb/newsroom/caleitc/eligibility-and-credit-information.html.
[2] Anderson, Alissa. *Most CalEITC Recipients Receive Very Little from the Credit*, California Budget & Policy Center (March 2022). https://calbudgetcenter.org/resources/most-caleitc-recipients-receive-very-little-from-the-credit/.

from the CalEITC: approximately 59% of these individuals are Latino, 22% are White, 10% are Asian/Pacific Islander, and 6% are Black.[3]

f) *ITIN filers*: Unlike the Federal EITC, which is only available to taxpayers with an SSN, California allows taxpayers who file using an ITIN to claim the CalEITC and YCTC. An ITIN is a tax processing number issued by the Internal Revenue Service (IRS) that is issued regardless of immigration status because both citizens and noncitizens may have a tax filing or reporting requirement under the IRC. While an ITIN does not authorize an individual to work in the U.S. or provide eligibility for Social Security benefits, it allows individuals to report their earnings to the IRS, open interest-bearing bank accounts with certain banks, and conduct business in the U.S. This filing option increases overall revenues and enables noncitizens to prove that they are paying the taxes they owe, which can be an important criterion when applying for U.S. citizenship.

ITIN information is partially protected by IRC Section 6103, which generally prohibits the IRS from disclosing taxpayer information, including to other federal agencies. However, there are important exceptions to this rule. In general, the IRS is required to disclose taxpayer information to state agencies responsible for tax administration, to powers of attorney and other designees, and to law enforcement agencies for investigation and prosecution of non-tax criminal laws.[4] Historically, the IRS has been very invested in maintaining the confidentiality of its information because doing so promotes confidence in the tax system, which prioritizes voluntary compliance.

g) *2021 expansion of Federal credits*: The American Rescue Plan (ARP), signed into law by President Biden in March 2021, significantly expanded tax credits that benefitted many lower income and middle-income filers, including the Federal EITC and the CTC. The ARP made two significant changes to the EITC for 2021 only: (i) it increased the credit amounts available to childless workers, and (ii) it broadened the age range for eligible filers from 24 to 65 years old to 19 and over.

In addition to the EITC expansion, the ARP also significantly expanded the CTC for 2021 only: For single filers with income of up to $75,000 ($112,500 for heads of household, $150,000 for joint filers), the maximum credit rose to $3,600 for dependents from ages 0 to 5 and $3,000 for dependents ages 6 to 17. The increased benefit amount phased out up to an income of $95,000 ($132,500 for heads of household, $170,000 for joint filers). For 2021 only, the credit amount was fully refundable for all eligible filers regardless of their earned income amounts. The ARP also directed the IRS to pay one-twelfth of eligible filers' credit amounts each month from July to December 2021.

h) *Challenges with uptake*: Some individuals in poverty with children who could benefit from the CalEITC and YCTC do not actually receive these benefits even though they are eligible. One significant barrier is that individuals must actually file their personal

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[3] Kimberlin, Sara. *Millions of Californians with Low Incomes Can Benefit from State Tax Credits*, California Budget & Policy Center (April 2022). https://calbudgetcenter.org/app/uploads/2022/04/R-FP-Regional-County-Tax-Credits-2.pdf.
[4] *Disclosure laws*, Internal Revenue Service. https://www.irs.gov/government-entities/federal-state-local-governments/disclosure-laws.

income taxes to claim these benefits. Some low-income people – and families in particular – do not earn enough on an annual basis to trigger California's income tax filing requirement, meaning they are not required to file a tax return at all. The threshold for filing a California tax return varies by filing status, age, number of dependents, and gross income:

Single or head of household

Age as of December 31, 2024*	0 dependents	1 dependent	2 or more dependents
Under 65	$22,273	$37,640	$49,165
65 or older	$29,723	$41,248	$50,468

Married/RDP filing jointly or separately

Age as of December 31, 2024*	0 dependents	1 dependent	2 or more dependents
Both are under 65	$44,550	$59,917	$71,442
One spouse/RDP is 65 or older	$52,000	$63,525	$72,745
Both are 65 or older	$59,450	$70,975	$80,195

Source: FTB.[5]

As noted above, the maximum income any taxpayer may earn to qualify for the CalEITC in 2024 was $31,950. The filing requirement threshold for a single filer under the age of 65 with one dependent was $37,640 in 2024. This means that single filers without dependents are the only category of taxpayer that may cross the filing threshold but still be eligible for the CalEITC. Conversely, any family – including a single parent family – that qualifies for the CalEITC based on their income is not required to file a tax return.

Some qualifying individuals who choose not to file a return may not be aware of the tax refunds they could receive. Additionally, some individuals may believe that submitting a tax return will open them up to paying additional amounts of tax, rather than enabling them to claim the benefits that they are entitled to. Others may simply not believe the time and effort of filing their taxes is worth it even if they are aware of the benefits they are eligible for. The lack of a filing requirement has been a persistent barrier to uptake of these credits for both the Federal EITC and CalEITC.

Another significant barrier to the uptake of the CalEITC and YCTC is the cost of paid tax preparation services, either by a professional or through licensed software applications.

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[5] *Residents – Do I need to file?*, Franchise Tax Board. https://www.ftb.ca.gov/file/personal/residency-status/index.html#Do-I-need-to-file-.

As the number of dependents that a filer may claim increases, the complexity of preparing a return generally increases, which subsequently increases the cost for preparation. While there are free filing options for which CalEITC eligible households would qualify – namely Direct File and CalFile – the greater complexity of preparing a return as household size increases can push households towards a professional preparer, which can be costly. Finding assistance with tax returns may also be complicated by language barriers. The Volunteer Income Tax Assistance (VITA) programs provide free assistance in multiple languages to eligible, low-income filers, but these programs are often over-subscribed and cannot support all households that seek their assistance.

i) *Outreach efforts*: California has engaged in numerous outreach efforts to encourage potentially eligible federal EITC and CalEITC taxpayers to file income tax returns and claim these credits. The FTB and California Department of Social Services (CDSS) worked with the California Policy Lab on several outreach campaigns using low-cost text messages and letters to increase awareness and claims of the federal EITC and the CalEITC in 2018 and 2019, but none of the outreach efforts led to an increase in tax filings.

In 2022, AB 158 (Committee on Budget), Chapter 737, Statutes of 2022, was passed and allows the FTB and the CDSS to share data for purposes of informing state residents of the availability of VITA, CalFile, the federal EITC, the CalEITC, and other federal and state antipoverty tax credits designed to alleviate poverty and tax burdens of low-income households. CDSS worked with the FTB and Code for America to implement a fall outreach campaign that included text messages, email messages, and voice recordings. Additionally, CDSS launched a new helpline to provide callers with live support and resources. Similarly, in 2023, the CDSS led a two-phased outreach campaign, including text messages in the spring, and text, voice, and email messages in the fall. CDSS also provided higher touch supports from their Outreach Helpline and proactively reached out to individuals and families to provide additional information and support.[6]

j) *Related legislation*:

i) AB 397 (Mark Gonzalez) expands the number of taxpayers eligible for the YCTC by gradually modifying the definition of "qualifying child" to include children over the age of five, as specified. AB 397 is set for a hearing by this Committee on March 10, 2025.

ii) AB 1402 (McKinnor) replaces the CalEITC and YCTC with a new grant program administered by county welfare departments, as specified. AB 1402 has not yet been set for a hearing by this Committee.

k) *Prior legislation*:

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[6] *California Earned Income Tax Credit, Young Child Tax Credit, and Foster Youth Tax Credit 2022 Report*, Franchise Tax Board (January 2025). https://www.ftb.ca.gov/about-ftb/data-reports-plans/California-Earned-Income-Tax-Credit-and-Young-Child-Tax-credit-Report-2022.pdf.

i) AB 1498 (Gipson), of the 2023-24 Legislative Session, was substantially similar to this bill. AB 1498 was held on the Assembly Appropriations Committee's Suspense File.

ii) AB 2589 (Santiago), of the 2021-22 Legislative Session, would have established a minimum CalEITC amount of $255 and expanded the number of taxpayers that qualified for the YCTC. AB 2589 was not heard by the Senate Committee on Governance and Finance.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Food Banks
California Catholic Conference
Central City Neighborhood Partners
Community Action Partnership of Kern
Compass Family Services
Courage California
Economic Security California Action
Friends Committee on Legislation of California
Glide
Golden State Opportunity
Grace Institute - End Child Poverty in CA
John Burton Advocates for Youth
Policylink
Prosper CA Coalition (formerly CalEITC Coalition)
San Diego for Every Child
Sbx Youth & Family Services
United Way Fresno Madera Counties
United Ways of California (UWCA)
Western Center on Law & Poverty
Young Invincibles

Opposition

None on file

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