SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 2465 (Ortega) - State government: benefits

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Policy Vote: REV. & TAX. 4 - 0, JUD. 11 - 2
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Mandate: No
Hearing Date: August 3, 2026
Consultant: Robert Ingenito

Bill Summary: AB 2465 would make a business entity that is directly invested in, owns, or manages a private detention facility, or contracts with a private detention facility or agency engaging in immigration enforcement, ineligible to receive any state-provided grant, loan, or tax credit, except as specified.

Fiscal Impact:

- This bill would prohibit specified taxpayers from claiming certain tax credits. According to the Franchise Tax Board (FTB), the number of affected taxpayers and the total amount of disallowed credits cannot be estimated. FTB assumes that each $1 million in denied tax credits would increase tax revenues by a corresponding $1 million. However, because the bill requires an equivalent amount to be transferred to the newly created Due Process for All Fund, the measure would have no net fiscal effect on the General Fund.

- FTB would incur administrative costs of $153,000 in 2026-27, and $384,000 in 2027-28, to implement the provisions of the bill (General Fund).

- This bill would result in increased workload (to screen applicants and recipients) across state agencies that administer benefit, subsidy, grant, or loan programs. The magnitude is unknown, but at a minimum, would likely reach the hundreds of thousands of dollars annually (General Fund and special funds).

Background: California's tax code includes several hundred tax expenditure programs (TEPs), consisting of credits, deductions, exclusions, and exemptions intended to encourage specified economic or social activities or provide targeted tax relief. According to the Department of Finance, these provisions reduce state revenues by more than $94 billion annually. Among the state's business-related tax expenditures are credits supporting economic development, housing production, research and development, film production, employment, historic preservation, and other policy objectives.

As part of the 2024 budget package, the Legislature temporarily limited the aggregate use of most business tax credits to $5 million annually for taxable years 2024 through 2026, while allowing taxpayers to preserve disallowed credits through an irrevocable election for future refundable credits. The Governor's 2026-27 May Revision proposed making a modified limitation permanent beginning in 2027. Subsequently, the Legislature approved SB 122 (Committee on Budget and Fiscal Review), extending the temporary limitation through the 2030 taxable year, while maintaining the refundable credit election with modifications and establishing a higher utilization threshold thereafter.

Beginning in early 2025, the federal government substantially expanded interior immigration enforcement activities, including increased worksite enforcement, residential arrests, and community-based apprehensions. These operations resulted in a significant increase in immigration arrests and received extensive public attention. Research has also suggested that the expanded enforcement activity has contributed to increased concerns among immigrant communities, including reduced participation in public services and interactions with government institutions.

The federal government contracts with private detention operators to house immigration detainees and certain federal criminal detainees. Pursuant to legislative oversight requirements, the California Department of Justice periodically reviews immigration detention facilities operating within the state. Its most recent report found that facility conditions had generally deteriorated amid increased detainee populations, citing overcrowding, reduced access to medical care, and deficiencies in detention conditions. The report also documented six detainee deaths during the review period, the highest number reported since the review program began.

Federal expenditures for privately operated immigration detention facilities in California have increased significantly in recent years as federal enforcement activity has expanded. Most facilities are operated by a small number of private contractors under agreements with the federal government.

California has previously sought to phase out privately operated correctional and detention facilities through AB 32 (Bonta, 2019), which prohibited the State from entering into or renewing contracts for private prisons and sought to eliminate the operation of private detention facilities within California. However, the Ninth Circuit Court of Appeals held that the prohibition, as applied to federal immigration detention facilities, was preempted by the Supremacy Clause of the United States Constitution, thereby limiting the state's authority to restrict federally contracted immigration detention operations.

Proposed Law: This bill, among other things, would do the following:

- Prohibit a business entity that contracts with the federal government for immigration enforcement purposes, as specified, from receiving any state-provided grant or loan, as specified.

- Prohibit a disqualified taxpayer, as defined, from receiving any tax credits, except as provided.

- Define “disqualified taxpayer” to mean a taxpayer that is directly invested in, owns, or manages a private detention facility, or a taxpayer that contracts with a private detention facility or agency engaging in immigration enforcement, as specified.

- Not apply the above provisions to a provider of health care, as defined, that contracts with a private detention facility or agency engaging in immigration enforcement, as specified.

- Establish the Due Process for All Fund and would require the Controller to transfer each year from the General Fund to the Due Process for All Fund the amount of tax collected that is attributable to business entities being made ineligible for tax credits by this bill.

- Make moneys in the Due Process for all Fund available upon appropriation by the Legislature for immigration-related services and programs.

Related Legislation:

- SB 1367 (Cervantes) would prohibit a city or county from approving new land uses or changes of use that permit a detention facility, as specified. The bill is currently pending in the Assembly Appropriations Committee.

- AB 1807 (Gabriel) would prohibit the use of state-owned property for immigration enforcement purposes, requires the Department of General Services to identify and post signage upon state-owned properties that have been used, or likely will be used, for immigration enforcement, and requires state agencies to create policies to ensure the documentation of any attempts or actual uses of state-owned property for immigration enforcement, and as well as various related provisions. The bill is currently pending in this Committee.

- AB 32 (Bonta, Chapter 739, Statutes of 2019) prohibited, on or after January 1, 2020, the Department of Corrections and Rehabilitation from entering into or renewing a contract with a private, for-profit prison to incarcerate state prison inmates, and prohibited any person from operating a private detention facility in the state. AB 32’s prohibition on private detention facilities was subsequently struck down as unconstitutional.

- SB 54 (De Leon, Chapter 495, Statutes of 2017) prohibited state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest individuals for immigration enforcement purposes, among other provisions.

- SB 29 (Lara, Chapter 494, Statutes of 2017) prohibited a city, county, city and county, or a local law enforcement agency from entering into a contract to detain noncitizens for immigration custody, and prohibited a city or county from approving or signing a deed or other document to convey land or issue a permit for the construction or reuse of a building to house or detain noncitizens for immigration proceedings unless it has provided specified notice to the public and solicited and heard public comments regarding the proposed detention facility.

Staff Comments: As noted above, this bill (among other prohibitions) would preclude specified taxpayers from claiming a broad range of California business tax credits, including previously earned credit carryforwards. The prohibition would apply to taxpayers with specified ownership, investment, management, or affiliated interests in private detention facilities or publicly traded companies that contract with private detention facilities or immigration enforcement agencies. The resulting fiscal effect is unknown because it depends on the number of taxpayers that would become ineligible and the amount of tax credits they would otherwise claim. As a result, FTB cannot estimate the revenue impact. However, revenue gains would be directly proportional to the amount of credits disallowed.

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