



## **Analysis of Original Bill**

Author: Voepel

Sponsor:

Bill Number: AB 152

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Introduced: January 7, 2019

Attorney: Shane Hofeling

Related Bills: See Legislative  
History

**Subject:** Gross Income Exclusion-Student Loan Assistance

### **Summary**

The bill would, under the Personal Income Tax Law (PITL), modify the exclusion from an employee's gross income amounts paid by their employer for educational assistance to include amounts paid by the employer for principal and interest on an employee's qualified education loan.

**Recommendation – No position.**

### **Reason for the Bill**

The reason for the bill is to lighten the burden that student loan debt places on Californians.

### **Effective/Operative Date**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative with respect to certain payments made by employers beginning on and after January 1, 2019, and before January 1, 2024.

### **Federal/State Law**

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Existing federal law<sup>1</sup> provides an exclusion of up to \$5,250 per year from gross income of an employee, for educational assistance furnished pursuant to an educational assistance program by an employer, for expenses incurred by, or on behalf of, an employee for education of the employee.

California has created a partial exclusion for employer-provided educational benefits modeled after, but not dependent on Internal Revenue Code (IRC) section 127.<sup>2</sup>

### **This Bill**

On or after January 1, 2019, and before January 1, 2024, this bill would, under the PITL, expand the exclusion from an employee's gross income for amounts paid by their employer for educational assistance, as specified, to similarly exclude amounts paid by the employer to the employer or a lender, of principal and interest on any qualified education loan incurred by the employee.

For purposes of this exclusion, employee means an employee who is paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

The limit on the exclusion of principal and interest payments would be \$5,250 per calendar year, matching the calendar year limit on the current exclusion.

The maximum aggregate calendar year exclusion for educational assistance and principal and interest payments on a qualified education loan would be \$10,500.

### **Implementation Considerations**

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

The effective and operative date states that the provision shall apply with respect to payments made by the employers "beginning on **and** after January 1, 2019, and before January 1, 2024". Specific payments cannot occur on and after a certain date. For clarity, it is recommended that "beginning on **and** after" should be amended to "beginning on **or** after January 1, 2019, and before January 1, 2024.

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<sup>1</sup> IRC section 127.

<sup>2</sup> Revenue and Taxation Code section 17151.

## **Legislative History**

AB 2478 (Voepel, 2017/2018), similar to this bill, would have allowed an employee to exclude from gross income the principal and interest on qualified education loans paid or incurred by the employer on the employee's behalf. AB 2478 failed to pass the Assembly Appropriations Committee.

AB 511 (Alquist, Chapter 107, Statutes of 2000), among other things, amounts paid or incurred by an employer for an employee to take graduate level courses as payments that may be excluded, up to \$5,250 per calendar year, from the employee's gross income. This exclusion applies to any course or education taken at the graduate level beginning on or after January 1, 2000.

## **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.

*Michigan, and New York* laws lack an exclusion similar to the exclusion this bill would allow.

*Illinois, Massachusetts and Minnesota*, allow an exclusion for qualified educational expenses reimbursed to an employee under an employer-provided education assistance program for qualified educational expenses for undergraduate and graduate education expenses up to the federal annual maximum of \$5,250 per calendar year.

## **Fiscal Impact**

This bill would not significantly impact the department's costs.

## Economic Impact

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 152 as Introduced January 7, 2019  
Assumed Enactment after June 30, 2019

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	- \$38
2020-2021	- \$31
2021-2022	- \$37

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 data from the Department of Education and other sources, it is estimated that Californians will hold an estimated \$150 billion in student loan debt, making the average student loan outstanding approximately \$38,000 in taxable year 2019. Based on current available literature, it is assumed that four percent, or \$6 billion, of the total outstanding student loan debt will be held by employees working for employers providing student loan repayment assistance. Of this amount, it is estimated that seven percent, or \$420 million, would be excluded from employee income. Assuming an effective tax rate of five percent, the bill would result in a revenue loss of approximately \$21 million for the 2019 taxable year. The tax-year estimates are then converted to fiscal years and rounded to arrive at the figures in the above table.

### Policy Concerns

The gross income exclusion would be allowed for qualified educational assistance expenses paid or incurred at an institution located either inside or outside California.

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