



## **Analysis of Original Bill**

Author: Fong

Sponsor:

Bill Number: AB 416

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Introduced: February 7, 2019

Attorney: Shane Hofeling

Related Bills: See Legislative  
History

**Subject:** California Achieving a Better Life Experience (CalABLE) Contributions Deduction

### **Summary**

This bill would, under the Personal Income Tax law (PITL), allow a tax deduction for amounts contributed to a CalABLE account.

**Recommendation – No position.**

### **Reason for the Bill**

The reason for the bill is to encourage individuals to make monetary contributions to support persons with disabilities to assist them with maintaining their health, independence, and quality of life.

### **Effective/Operative Date**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2019, and before January 1, 2024.

### **Program Background**

In 2015, Governor Brown signed the California ABLE Act into law, which allows qualified individuals with disabilities and their families to open tax-free savings accounts without the worry of losing vital government assistance.

Contributions to a CalABLE account, currently limited to \$15,000 per year, can be made by family, friends, or the beneficiary themselves. The account's earnings are allowed to accumulate tax-free, and the withdrawals, provided they are applied to qualifying disability expenses, are tax-free.

## **Federal/State Law**

### *Qualified ABLE Programs*

Existing federal and state laws allow contributions to Achieving a Better Life Experience Accounts (ABLE accounts) for the qualified disability expenses of the designated beneficiary of the account. Amounts in the account accumulate on a tax-free basis. Distributions from an ABLE account are generally excludable from income to the extent that the total distribution does not exceed the qualified disability expenses of the beneficiary during the taxable year.

Contributions may be made by any person to an account (an "ABLE account"), established for the purpose of meeting the qualified disability expenses of the designated beneficiary that is an eligible individual, as defined, of the ABLE account.

Contributions to an ABLE account must be made in cash, are subject to specified limitations and are not deductible.

### *Above-the-line Deductions*

Existing federal and state laws allow for the deduction of certain expenses, from gross income, when calculating adjusted gross income (AGI), such as moving expenses and interest on education loans, certain ordinary and necessary trade and business expenses, losses from the sale or exchange of certain property, contributions for pension, profit-sharing and annuity plans of self-employed individuals, retirement savings, and alimony. Thus, all taxpayers with these types of expenses receive the benefit of the deduction, regardless of whether the taxpayer itemizes deductions or uses the standard deduction. These are known as above-the-line deductions.

There are currently no federal or state deductions comparable to the deduction this bill would create.

## **This Bill**

For each taxable year beginning on or after January 1, 2019, and before January 1, 2024, this bill would, under the PITL, allow as a deduction when determining AGI amounts contributed by a taxpayer to a CalABLE account during the taxable year.

This deduction would remain in effect until December 1, 2024, and be repealed as of that date.

## **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.

Because the bill fails to specify otherwise, an individual that contributed to multiple CalABLE accounts would be allowed a deduction for 100 percent of their contributions. If this is contrary to the author's intent, this bill should be amended.

The deduction would be limited to individuals although contributions to a CalABLE account may be made by any person, including business entities as well as individuals. If the author intends to provide a tax benefit to all CalABLE contributors, this bill should be amended.

## **Legislative History**

AB 736 (Irwin, 2018/2019) would allow amounts from tuition programs to be rolled over to an ABL account without penalty. This bill is currently in the committee process.

SB 263 (Dodd, 2018/2019) would conform to changes made by the federal Tax Cuts and Jobs Act to section 529 of the Internal Revenue Code relating to rollovers to ABL programs from section 529 programs. This bill is currently in the committee process.

AB 2039 (Fong, 2017/2018), substantially similar to this bill, would have allowed an above-the-line deduction for contributions to a CalABLE account. AB 2039 failed passage out of the Assembly by the constitutional deadline.

SB 1352 (Stone, 2017/2018), would have allowed a credit for contributions to a CalABLE account. SB 1352 failed passage out of the Senate by the constitutional deadline.

## **Other States' Information**

The states surveyed include *Florida, 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. A review of these states' laws found that all have established ABL programs in their state; none allow a deduction for contributions as proposed by this bill.

## **Fiscal Impact**

The department's cost 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 AB 416 as Introduced on February 7, 2019  
Assumed Enactment after June 30, 2019

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2019-2020	-\$5.3
2020-2021	-\$4.9
2021-2022	-\$6.1

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

The CalABLE Savings Plan were made available to the public on December 18, 2018. As a result, actual full year's data is not currently available. Based on the California Treasurer's CalABLE projections, it is estimated that \$33 million in qualified contributions would be made to CalABLE accounts in 2019. By 2023, the amount of contributions would grow to approximately \$85 million dollars. According to the Government Accountability Office, individuals who set up 529 accounts are significantly wealthier than other individuals. Using an average tax rate of 9 percent results in an estimated revenue loss of \$3 million in 2019, and \$7.6 million in 2023.

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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