



## Analysis of Original Bill

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Sponsor:

Bill Number: AB 736

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Introduced: February 19, 2019

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Related Bills: See Legislative  
History

**Subject:** Federal Conformity – 529 Program Rollovers to ABLE Programs

### Summary

This bill would, under the Personal Income Tax Law and the Corporation Tax Law, allow amounts from qualified tuition programs to be rolled over to ABLE accounts without penalty.

**Recommendation – No position.**

### Reason for the Bill

The reason for this bill is to encourage saving for future educational expenses.

### 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, 2026.

### Federal/State Law

Existing state and federal laws provide for qualified tuition programs, also known as Internal Revenue Code (IRC) 529 accounts as well as Achieving a Better Life Experience accounts (ABLE accounts), known as IRC 529A accounts. Both are tax-favored savings programs. An IRC section 529 plan account is a tax-advantaged investment vehicle in the United States designed to encourage saving for the future higher education expenses of a designated beneficiary. An ABLE account is a tax-advantaged investment vehicle in the United States designed to encourage saving for the account beneficiary's qualified disability expenses.

Federal law, under the provisions of the Tax Cuts and Jobs Act (TCJA), temporarily allows amounts from an IRC 529 account to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of

that 529 account, or a member of such designated beneficiary's family. Such rolled-over amounts count towards the overall limitation on amounts that can be contributed to an ABLÉ account within a taxable year. Under current federal law, any amount rolled over that is in excess of this limitation is included in the beneficiary's taxable income and subject to a 10 percent additional tax.

Current state law conforms to IRC sections 529 and 529A, as of the "specified date" of January 1, 2015, with modifications, for example the additional tax for state purposes is reduced to 2.5 percent. California has not conformed to the modifications of IRC 529 and ABLÉ accounts made by the TCJA.

### **This Bill**

This bill would, for taxable years beginning on or after January 1, 2019, and before January 1, 2026, conform to the federal provisions allowing amounts from IRC 529 accounts to be rolled over to ABLÉ accounts without penalty.

### **Implementation Considerations**

Implementing this bill would occur during the department's normal annual updates.

### **Legislative History**

SB 263 (Dodd, 2019/2020), would, among other things, allow amounts from qualified tuition programs to be rolled over to ABLÉ accounts without penalty. SB 263 is currently pending before the Senate Committee on Governance and Finance.

### **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 provide 529 college savings plans and ABLÉ programs in their state.

*Florida, Massachusetts, Michigan, and New York* generally conform to the federal treatment of 529 and ABLÉ accounts, and allow amounts from their state qualified tuition programs to be rolled over to their state ABLÉ accounts without penalty.

*Illinois and Minnesota* generally conform to the federal treatment of 529 and ABLÉ accounts, and allow amounts from their state qualified tuition programs to be rolled over to their state ABLÉ accounts without penalty, although tax-free rollovers are restricted to once per a 12-month period.

### **Fiscal Impact**

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

## **Economic Impact**

### Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 736 as Introduced on February 19, 2019  
Assumed Enactment after June 30, 2019

(\$ in Dollars)

<b>Fiscal Year</b>	<b>Revenue</b>
2019-2020	-\$80,000
2020-2021	-\$60,000
2021-2022	-\$80,000

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

This revenue estimate is based upon a proration of the Joint Committee on Taxation (JCT) estimate for amounts from qualified tuition programs (also known as "529 accounts") to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of that 529 account or a member of such designated beneficiary's family. In December 2018, the JCT estimated the federal revenue impact of the credit to be a loss of \$1 million in 2019. The estimated revenue loss to California would be \$80,000 in tax year 2019.

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

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