



## Bill Analysis

Author: Voepel

Sponsor:

Bill Number: AB 116

Related Bills: See Legislative  
History

Introduced: December 18,  
2020

## SUBJECT

Employer Education Assistance Plan Exclusion

## SUMMARY

The bill would, under the Personal Income Tax Law (PITL), create an 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.

## SUMMARY OF AMENDMENTS

Not applicable.

## REASON FOR THE BILL

To address the student debt crisis that many people in the State of California face.

## ANALYSIS

This bill would, under the PITL, exclude from an employee's gross income, amounts of principal and interest on any qualified education loan, incurred by the employee, that were incurred or paid by their employer beginning on and after January 1, 2021, and before January 1, 2026, whether paid to the employee or lender.

The limit on this exclusion of specified principal or interest payments would be \$5,250 per calendar year.

This bill also makes several nonsubstantive technical changes to the exclusion from gross income for educational assistance paid or incurred by an employer to an employee and removes the expired provision related to expenses paid by an employee's employer for any courses taken at the graduate level for that exclusion.

In unmodified law, the bill specifies that it is the Legislature's intent to comply with the requirements of Section 41 of the Revenue and Taxation Code (R&TC) and states that the goal of the bill is to ensure California addresses the student debt crisis faced by many Californians and the effectiveness of the exclusion would be measured by the decrease in student loan defaults and the increase in timely repayment of student loans.

#### *Effective/Operative Date*

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for payments made by employers beginning on and after January 1, 2021, and before January 1, 2026.

#### *Federal Law*

Existing federal law, 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. In December 2020, the definition of education assistance was amended to include, in the case of payments made before January 1, 2026, the payment by an employer of principal or interest on any qualified education loan incurred by the employee for education of the employee.

#### *State Law*

California has an exclusion for employer-provided educational benefits modeled after, but not dependent on Internal Revenue Code (IRC) section 127. Under this provision, current state law excludes from an employee's gross income amounts paid by their employer for educational assistance to the employee pursuant to an educational assistance program. California conforms to the IRC as of January 1, 2015, and, therefore, does not conform to the federal definition of education assistance as explained above.

Under R&TC section 41, legislation that would create a new tax expenditure, which includes a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the tax benefit.

#### *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, 2021, and before January 1, 2026". 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, 2021, and before January 1, 2026."

Existing law includes an exclusion for \$5250 for an education assistance program and this bill would create an additional exclusion of \$5250 for payments made by employers to loan principal and interest. If this is contrary to the author's intent, the bill should be amended

The bill includes R&TC section 41 performance measures. The reporting requirements are unclear concerning who is reporting. Effectiveness as measured by the decrease in student loan defaults or the increase in timely repayment of student loans is not information that FTB would have. For ease of reference, it is recommended that the bill be amended to clarify the reporting requirements.

#### *Technical Considerations*

It may be helpful to put the provisions related to the new exclusion for qualified education loans in a separate section of the R&TC so it is clear that there are two separate exclusions.

#### *Policy Considerations*

None noted.

### **LEGISLATIVE HISTORY**

AB 152 (Voepel 2019/2020), similar to this bill, would have modified 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. AB 152 did not pass out of the Assembly by the constitutional deadline.

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 did not pass the Assembly Appropriations Committee.

### **PROGRAM BACKGROUND**

None noted.

## **FISCAL IMPACT**

The department's costs 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 116 as Introduced December 18, 2020  
Assumed Enactment after June 30, 2021

(\$ in Millions)

Fiscal Year	Revenue
2021-2022	-\$95
2022-2023	-\$70
2023-2024	-\$75

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.

## **LEGAL IMPACT**

None noted.

## **APPOINTMENTS**

None noted.

## **SUPPORT/OPPOSITION**

To be determined.

## **ARGUMENTS**

To be determined

## **LEGISLATIVE CONTACT**

[FTBLegislativeServices@ftb.ca.gov](mailto:FTBLegislativeServices@ftb.ca.gov)