STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: DeMaio

Sponsor:

Bill Number: AB 19

Related Bills: See Legislative History

Amended: March 28, 2025

SUBJECT

Education Choice and Parental Empowerment Act of 2025

SUMMARY

This bill, under the Education Code (EDC), would create the Education Choice and Parental Empowerment Act of 2025. This act would create a state-funded trust under which parents and guardians can request that an account be established for their children for tuition and expenses associated with education at an eligible school. Under the Personal Income Tax Law (PITL), this bill, for taxable years beginning on or after January 1, 2026, would provide a gross income exclusion for distributions from and a deduction for an amount equal to the amount contributed by a taxpayer to an Education Saving Account (ESA).

This analysis only addresses the provisions that would impact the Franchise Tax Board (FTB).

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The March 28, 2025, amendments removed intent language relating to the Education Choice and Parental Empowerment Act of 2025 and replaced it with the provisions discussed in this analysis.

REASON FOR THE BILL

The reason for this bill is to provide state funding for education expenses.

ANALYSIS

This bill, under the EDC and upon voter approval, would create the Education Choice and Parental Empowerment Act of 2025. Under this program, funds would be distributed to an eligible school on behalf of a student that is eligible for an ESA.

This bill would allow any unit of federal, state, or local government, or any other person, firm, partnership, or corporation, make a grant, gift, or other appropriation for deposit into the administrative account, the program account, or the ESA of any individual account beneficiary.

Under the PITL, for taxable years beginning on or after January 1, 2026, this bill would provide a gross income exclusion for distributions from an ESA pursuant to a participation agreement.

This bill would also allow a deduction equal to the amount contributed by a taxpayer to an ESA.

This bill, under the EDC, would define and provide the following:

- “Education Savings Account (ESA)” means an education savings account established under the provisions added by this bill.
- “Participation agreement” means the uniform contract created by the ESA Trust Board that must be executed by the ESA Trust Board and the parent or legal guardian of an eligible student that directs the ESA Trust Board to disburse funds to an eligible school on behalf of the account beneficiary.

This bill provides that the Legislature intends to comply with the requirements of Revenue and Taxation Code section 41.

Effective/Operative Date

This bill would be effective January 1, 2026, and would become operative on January 1, 2027, if an unspecified Assembly Constitutional Amendment is approved by voters at the statewide general election on November 3, 2026. If the Assembly Constitutional Amendment is approved by voters, the gross income exclusion and deduction would be specifically operative for taxable years beginning on or after January 1, 2026.

Federal/State Law

Gross Income

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Qualified Tuition Programs

Internal Revenue Code section 529 (Section 529 Plan) provides tax exempt status to qualified tuition programs (QTPs).

Contributions to a QTP must be made in cash. The Section 529 Plan does not impose a specific dollar limit on the amount of contributions, account balances, or prepaid tuition benefits relating to a qualified tuition account; however, the program is required to have adequate safeguards to prevent contributions in excess of amounts necessary to provide for the beneficiary's qualified higher education expenses. Contributions are not tax deductible for federal income tax purposes, but amounts earned in the account (i.e., interest) accumulate on a tax-free basis. Similar to federal law, state law provides that contributions made to a QTP are not deductible.

Distributions from a QTP are excludable from federal tax if used for the beneficiary's qualified higher education expenses. If a distribution from a QTP exceeds the qualified higher education expenses incurred for the beneficiary, the portion of the excess that is treated as earnings generally is subject to income tax and an additional 10 percent tax. Amounts in a QTP may be rolled over to another QTP for the same beneficiary or for a member of the family of that beneficiary.

For purposes of receiving a distribution from a QTP that qualifies for favorable tax treatment under the IRC, expenses mean qualified higher education expenses, qualified elementary and secondary education expenses, and expenses for special needs services in the case of a special needs beneficiary that are incurred in connection with such enrollment or attendance.

California generally conforms by reference to the federal rules related to state QTP rules under IRC section 529 as of the specified date of January 1, 2015, and does not conform to the federal definition for higher education expenses, which includes tuition expenses for elementary and secondary education.

Section 41

Under existing state law, legislation that would create a new tax expenditure, which includes a credit, deduction, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, detailed performance indicators and data collection requirements measures to allow the Legislature to evaluate the effectiveness of the tax benefit. Legislation that would create an income exclusion, would not require detailed performance indicators and data collection requirements performance measures if the Legislature determines there is no available data to collect and report.

Itemized Deductions

State law generally conforms to federal law as of the "specified date" of January 1, 2015, with modifications, allowing individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. State law retains the deduction for state and local taxes, miscellaneous itemized deductions, and the limitation for high-income taxpayers.

Implementation Considerations

The FTB has identified the following considerations for purposes of a high-level discussion; additional considerations may be identified as the bill moves through the legislative process. FTB staff is available to work with the author's office to resolve these and other considerations that may be identified.

This bill uses undefined terms, "single filer" and "dual filers" within the definition of eligible student in the EDC. Income limitations are generally applied to specific filing statuses. The absence of definitions could lead to taxpayer confusion. For clarity, the author may wish to amend the bill to define these terms.

Technical Considerations

None noted.

Policy Considerations

This bill creates a new tax expenditure in the form of an exclusion and a deduction. As such, this bill is required to include specific goals, purposes, objectives, detailed performance indicators and data collection requirements measures to allow the Legislature to evaluate the effectiveness of the tax benefit. However, legislation that would create an income exclusion, would not require detailed performance indicators and data collection requirements performance measures if the Legislature determines there is no available data to collect and report. The author may wish to amend the bill to provide specific goals, purposes, objectives, detailed performance indicators and data collection requirements measures to allow the Legislature to evaluate the effectiveness of these new tax expenditures. However, if the Legislature determines that there is no available data to collect and report for purposes of the income exclusion, the author need not include detailed performance indicators and data collection requirements performance measures to evaluate the effectiveness of the income exclusion.

LEGISLATIVE HISTORY

SB 64 (Grove, (2025/2026) would create a state-funded trust under which parents could establish an account for their children for tuition and expenses associated with education at an eligible school, as defined. Additionally, this bill would provide a gross income exclusion for trust distributions. This bill did not pass out of the Senate Education Committee.

AB 629 (Wallis, 2023/2024) would have excluded from gross income a distribution from a QTP to a Roth IRA. This bill did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

SB 292 (Grove, 2023/2024) would have created a state funded trust under which parents could establish an account for their children for tuition and expenses associated with education at an eligible school as defined. Additionally, this bill would have provided a gross income exclusion for trust distributions. This bill did not pass out of the Senate Education Committee.

SB 1203 (Grove, 2023/2024) would have, similar to this bill, under the EDC and upon voter approval, created the Education Flex Account Act of 2024. Under this program, funds would be disbursed to an eligible school on behalf of a student that is eligible for an Education Flex Account or Special Education Flex Account. This bill did not pass out of the Senate Education Committee.

PROGRAM BACKGROUND

None noted.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 19 as Amended on March 28, 2025
Assumed Enactment after June 30, 2025

($ in Millions)

Fiscal Year	Revenue*
2025-2026	-$0
2026-2027	-$14
2027-2028	-$38

*This estimate assumes that an unspecified Assembly Constitutional Amendment would be approved by voters at the statewide general election on November 3, 2026.This analysis does not account for any behavior changes on the part of parents, guardians, or eligible schools.

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 California Department of Education, there would be approximately 575,000 students enrolled in eligible private schools in 2027. It is estimated that 17 percent, or 100,000 eligible students, would have parents or guardians within the specified taxable income range for the 2027-2028 school year. It is further assumed that all would apply for an ESA on behalf of an eligible student.

Using data on private school tuition costs, it is estimated the average qualified private school tuition for the 2027-2028 school year would be $17,500. It is assumed that half would be distributed by the State Controller to the eligible student's school in the 2027 taxable year and the remaining half in the 2028 taxable year, resulting in about $860 million excluded from income in the 2027 taxable year. It is further assumed that about five percent, or 5,000 eligible students, would have a parent or guardian that would make monetary contributions to the ESA of $100 per month, or about $600 in 2027. This results in about $3 million in contribution deductions reported by taxpayers in the 2027 taxable year.

The net total amount reported as an income exclusion or a contribution deduction would be about $863 million in the 2027 taxable year, increasing to $11.9 billion in the 2031 taxable year when the income limitation to open an ESA is lifted. Applying an average tax rate of three percent results in an estimated revenue loss of $25 million in the 2027 taxable year and increases to $710 million in the 2031 taxable year.

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

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Assembly Revenue and Taxation committee dated 04/21/25

Support

California Catholic Conference

Opposition

California School Employees Association
California State PTA
California Federation of Teachers
Church State Council

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov