Date of Hearing: March 24, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 984 (Nguyen) – As Introduced February 20, 2025

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Personal income taxes: deductions: CalABLE contributions

SUMMARY: Provides an above-the-line deduction for contributions made to a California Achieving a Better Life Experience (ABLE) Act account. Specifically, **this bill**:

1) Provides, for taxable years beginning on or after January 1, 2026, and before January 1, 2031, a deduction under the Personal Income Tax (PIT) Law in computing adjusted gross income (AGI) equal to the amount contributed during the taxable year to a CalABLE account.

2) Provides that, for purposes of Revenue and Taxation Code (R&TC) Section 41, the Legislature finds and declares all of the following:

   a) The objective of this bill is to increase the amount contributed to CalABLE accounts and to help people with disabilities and their families prepare for the future;

   b) The Franchise Tax Board (FTB) shall submit a report, on or before January 1, 2031, to the Legislature that shall include, without limitation, the amount of deductions allowed to CalABLE contributors pursuant to this bill, and findings and declarations relating to the goals of the deduction. This report shall be submitted in compliance with Government Code Section 9795; and,

   c) The success of this bill shall be measured by calculating the average of the contributions made during for [*sic*] the taxable year beginning on or after January 1, 2026, and before January 1, 2027, and each subsequent taxable year, to determine if there is an increase in contributions per year.

3) Takes immediate effect as a tax levy.

4) Sunsets the deduction's statutory provisions on December 1, 2031.

EXISTING FEDERAL LAW enacts the Stephen Beck, Jr., ABLE Act of 2014 (ABLE Act), which helps individuals and families save private funds to support eligible individuals with disabilities, as specified, by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a qualified ABLE program established and maintained by a state. (Internal Revenue Code Section 529A.)

EXISTING STATE LAW:

1) Establishes the Qualified ABLE Program, administered by the California ABLE Act Board, for purposes of implementing the federal ABLE Act. (Welfare and Institutions Code Section 4875 *et seq.*)

2) Allows, under the PIT Law and in modified conformity with federal income tax laws, various deductions from gross income in computing AGI, including deductions for payments to individual retirement accounts, alimony payments, and interest on educational loans. (R&TC Section 17072.)

3) Requires any bill that authorizes a tax expenditure to contain all of the following:

   a) Specific goals, purposes, and objectives that the tax expenditure will achieve;

   b) Detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goals, purposes, and objectives stated in the bill; and,

   c) Specified data collection requirements to enable the Legislature to determine whether the tax expenditure is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. (R&TC Section 41.)

FISCAL EFFECT: The FTB estimates that this bill would reduce General Fund revenues by $5.2 million in fiscal year (FY) 2025-26, by $11 million in FY 2026-27, and by $16 million in FY 2027-28.

COMMENTS:

1) The author has provided the following statement in support of this bill:

   > Assembly Bill 984 is a vital step forward in providing greater financial opportunities for individuals with disabilities and their families. By allowing contributions to the CalABLE program to be tax-deductible, AB 984 ensures that more people can save for their future with the necessary resources and support. This bill reflects California's commitment to fostering inclusion and improving the quality of life for all its residents, especially those with disabilities.

2) This bill is sponsored by California State Treasurer Fiona Ma, who notes the following:

   > [C]urrent restrictions on income and limitations on financial independence continue to make it difficult to save, even with a CalABLE account. This is an especially significant burden to lower-income beneficiaries. Currently, 71% of CalABLE account holders receive SSI and/or Social Security Disability Insurance (SSDI), both of which are restricted to individuals with low or no income.
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   > To combat these costs, 23 states offer tax deductions or tax credits on deposits made into their ABLE accounts. If applied to California tax law, these tax deductions for taxpayer's contributions to CalABLE accounts would help CalABLE beneficiaries to save for themselves by reducing a significant cost of entry.

This strategy would also serve as a catalyst to empower families and individuals to engage with a CalABLE account by encouraging increased contributions to a CalABLE account. If this tax deduction was adopted, it would make it easier for friends and family to gift money to people with disabilities, exponentially increasing participation and providing financial resources for millions of Californians, including hundreds of thousands of veterans.

3) Committee Staff Comments:

a) *The federal ABLE Act*: The federal ABLE Act authorizes eligible individuals to open an account in an ABLE program to help pay for the qualified disability expenses of a designated beneficiary. To qualify, the eligible individual must be disabled or blind, with the onset of disability or blindness occurring before the individual attains age 26 (or age 46 for tax years beginning after 2025).

Any person may make a nondeductible contribution to an ABLE account for the benefit of a designated beneficiary. Contributions must be in cash and the aggregate amount of contributions from all sources for the tax year cannot exceed the annual gift tax exclusion amount for the year (e.g., $19,000 for 2025). For tax years beginning before January 1, 2026, specified beneficiaries may make additional contributions to the account up to the lesser of their compensation includible in gross income, or the federal poverty line for a one-person household for the year. In addition, for tax years beginning before January 1, 2026, the retirement savings contribution credit can be claimed by a designated beneficiary for contributions to an ABLE account.

The cumulative balance in an ABLE account is disregarded for purposes of determining a designated beneficiary's eligibility for Supplemental Security Income (SSI) benefits and certain other means-tested programs. Distributions from an ABLE account are excluded from gross income to the extent they do not exceed the qualified disability expenses of the beneficiary. Qualified disability expenses, in turn, include expenses for education, housing, transportation, employment training, health, financial management, legal fees, and funeral and burial expenses.

b) *Encouraging or rewarding behavior*? This bill provides an above-the-line deduction to encourage individuals to contribute funds to an ABLE account for the benefit of the beneficiary. The beneficiary gets the benefit of having funds contributed to their account and the contributor gets to reduce their tax liability for the year. Most individuals who contribute to an ABLE account probably do so because of a desire to help a loved one who is living with a disability. In fact, it might be odd to have a complete stranger donate money to an ABLE account, even with an above-the-line deduction being made available. As such, it is unclear if this deduction would encourage people to give who are not already giving, although it is likely that individuals might contribute more than they would have because of the deduction. However, to the extent beneficiaries are already receiving the annual limitation of $19,000 per year in contributions, this bill would be providing a windfall.

c) *Retirement Savings Contribution Credit*: Federal law allows a designated beneficiary to receive a credit for contributions to their ABLE account. Specifically, eligible lower income individuals may claim a nonrefundable credit for contributions to the individual's own ABLE account. The credit is equal to an applicable percentage of up to $2,000 in qualified retirement savings contributions. The applicable percentage, in turn, is 10, 20, or 50%, depending on the taxpayer's filing status and AGI.

d) *Benefits not determined by need*: A broad group of disabled individuals qualify under the ABLE Act, and the needs of these individuals vary based on circumstances. This deduction, however, does not distribute benefits based on need. Instead, this bill distributes the benefits of the above-the-line deduction based on the willingness and ability of individuals to contribute to an ABLE account. As mentioned above, most contributions are currently made by beneficiaries, or friends and family members of the beneficiary. Therefore, beneficiaries with a strong circle of friends and family who have the means to contribute will likely benefit the most, while those who have a smaller social circle or who come from more modest means may not necessarily receive a benefit.

e) *Above-the-line deduction vs itemized deduction*: An "above-the-line" deduction is used to derive a taxpayer's AGI, while a "below-the-line" deduction reduces California AGI to derive taxable income. "Above-the-line" deductions are more desirable than "below-the-line" deductions because they can be claimed even if the taxpayer does not itemize. Additionally, they lower the taxpayer's AGI, which may allow the taxpayer to qualify for additional tax benefits.

f) *The value of a tax deduction*: A deduction is generally more valuable to high-income taxpayers because the "value" of a deduction varies with the marginal tax rate (or tax bracket) of the taxpayer. For example, an individual taxpayer in a 10% tax bracket would receive a tax benefit of $10 on a $100 deduction. In contrast, a taxpayer in a 25% tax bracket would save $25 in tax out of every $100 deducted. Thus, assuming the same level of deductions, high-income taxpayers, presumably with a greater ability to pay taxes, would receive a greater tax benefit from the proposed deduction than lower income taxpayers.

g) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, United States Treasury officials began arguing that these features of the tax law should be referred to as "expenditures," since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each of them (in the form of forgone revenues). This bill would enact a new tax expenditure program in the form of an above-the-line deduction for contributions to an ABLE account.

h) *Committee's tax expenditure policy*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

   In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years. This bill, as currently drafted, complies with both R&TC Section 41 and the Committee's policy on sunset dates.

i) *Previous legislation*:

   i) AB 416 (Fong), of the 2019-20 Legislative Session, would have allowed an above-the-line deduction equal to the amount contributed by a taxpayer during the taxable year to a CalABLE account. AB 416 was held on the Assembly Committee on Appropriations' Suspense File.

   ii) AB 2039 (Fong), of the 2017-18 Legislative Session, would have allowed an above-the-line deduction equal to the amount contributed by a taxpayer during the taxable year to a CalABLE account. AB 2039 was held on the Assembly Committee on Appropriations' Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer Fiona Ma (Sponsor)

Opposition

None on file

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