Date of Hearing: June 23, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

SB 785 (Caballero) – As Amended May 6, 2025

Majority vote. Tax levy. Fiscal committee.

SENATE VOTE: 38-0

SUBJECT: Personal income tax: credit: durable medical equipment

SUMMARY: Allows a credit under the Personal Income Tax (PIT) Law for purchases of certain durable medical equipment, as specified. Specifically, **this bill**:

1) Contains the following findings and declarations:

   a) Families with medically complex children often face substantial out-of-pocket costs, even with private insurance or Medi-Cal coverage;

   b) Many essential durable medical equipment items like wheelchairs, ventilators, feeding pumps, or home monitors are either not fully covered, denied by insurance, or require families to pay upfront and appeal later;

   c) According to the Lucile Packard Foundation for Children's Health, California families of children with special health care needs are more likely to experience financial hardship than families with nondisabled children;

   d) Low- and middle-income families often cannot afford the upfront costs of durable medical equipment, which can lead to delayed care or forced institutionalization;

   e) Access to appropriate durable medical equipment at home often prevents costlier interventions, like emergency room visits or prolonged hospitalizations;

   f) Supporting at-home care aligns with state and federal policy goals around deinstitutionalization and family preservation; and,

   g) The intent of this bill is to provide much needed relief to taxpaying families who struggle with the out-of-pocket costs associated with medically necessary durable medical equipment.

2) Allows a PIT credit equal to 50% of the "qualified expenditures" of a taxpayer during the taxable year, not to exceed $5,000 per taxable year for each "qualifying dependent."

3) Allows the credit for taxable years beginning on or after January 1, 2026, and before January 1, 2031.

4) Defines a "qualified expenditure" as an unreimbursed expense paid or incurred by the taxpayer for the purchase of "durable medical equipment" prescribed by a licensed health care provider for use by a "qualifying dependent".

5) Defines a "qualifying dependent" as a dependent of the taxpayer that has one or more "complex medical conditions" and is younger than 18 years of age as of the first day of the taxable year.

6) Defines "durable medical equipment" by reference to Section 1395x(n) of Title 42 of the United States Code.

7) Defines "complex medical conditions" to include, without limitation, conditions where an individual would be eligible for early and periodic screening, diagnosis, and treatment services, as described in Welfare and Institutions Code Section 14132(v).

8) Provides that, in cases where the credit amount exceeds the taxpayer's tax liability, the excess credit amount may be carried over to reduce the taxpayer's tax liability in the succeeding eight years, if necessary, or until the credit has been exhausted.

9) Provides that, if any credit is claimed by the taxpayer, any deduction otherwise allowed for that amount of the cost paid or incurred by the taxpayer that is eligible for the credit claimed shall be reduced by the amount of the credit allowed.

10) Provides that the credit allowed shall be in lieu of any other credit that the taxpayer may otherwise be allowed under the PIT Law with respect to amounts taken into account in calculating the credit allowed by this bill.

11) Authorizes the Franchise Tax Board (FTB) to prescribe rules, guidelines, procedures, or other guidance to carry out the purposes of this credit.

12) Provides that, for purposes of complying with Revenue and Taxation Code (R&TC) Section 41, the Legislature finds and declares:

    a) The goal of this credit is to provide financial relief to families with children who have complex medical conditions that face large or consistent out-of-pocket expenses associated with expensive, medically necessary durable medical equipment; and,

    b) The performance indicators for the Legislature to use in determining whether the credit achieves its stated goal shall be the number of taxpayers allowed a credit under this bill, and the total dollar amount of credits allowed.

13) Requires the FTB, no later than July 1, 2028, and annually thereafter, to submit a report to the Legislature, in compliance with Government Code Section 9795, detailing the number of taxpayers allowed a credit under this bill and the total dollar amount of credits allowed. These disclosure requirements shall be treated as an exception to R&TC Section 19542.

14) Takes immediate effect as a tax levy.

15) Sunsets on December 1, 2031.

EXISTING FEDERAL LAW defines "durable medical equipment" to include:

1) Iron lungs, oxygen tents, hospital beds, and specified wheelchairs used in the patient's home, whether furnished on a rental basis or purchased;

2) Blood-testing strips and blood glucose monitors for individuals with diabetes; and,

3) Eye tracking and gaze interaction accessories for speech generating devices furnished to individuals with a demonstrated medical need for such accessories. (42 U.S.C. Section 1395x(n).)

EXISTING STATE LAW:

1) Allows various tax credits under the PIT Law. These credits are generally designed to encourage socially beneficial behavior or to provide relief to taxpayers that incur specified expenses. (R&TC Section 17001 *et seq.*)

2) 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 $3.2 million in fiscal year (FY) 2025-26, by $5.7 million in FY 2026-27, and by $6 million in FY 2027-28.

COMMENTS:

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

> Families with children who have complex medical conditions are faced with many burdens, barriers, and anxieties in their day to day lives. Many struggle financially because of the diagnosis and the treatment. One of these burdens is the cost of durable medical equipment (DME), equipment that have been prescribed by a physician and are medically necessary for the care of the child, such as wheelchairs and ventilators.
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> California offers various forms of financial relief for residents who are faced with the high costs of healthcare. The Medical Expense Deduction allows taxpayers to deduct unreimbursed medical expenses that exceed 7.5% of adjusted gross income. And while prescribed DME can qualify for this itemized deduction, the fact is that most middle-income Californians don't meet the high thresholds [needed] to itemize their deductions, and claim the deduction.
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> Other states have taken different approaches to relieving the financial burdens associated with DME. New York provides a sales tax exemption for all DME costs. States like

Maryland and Minnesota provide broad deductions and insurance mandates for DME coverage.

Families face enormous out-of-pocket costs even when they have private insurance or Medi-Cal. Without access to essential DME, children with complex medical conditions experience delays in care, hospitalization, and in extreme cases, institutionalization. Data shows that children with complex health needs do best at home, but only if they have timely access to the equipment that keeps them safe and healthy. A tax credit eases the stress for families who have to make out-of-pocket DME purchases and reduces the financial burden of unreimbursed costs.

Beginning January 1, 2026, the tax credit created by SB 785 will allow a taxpayer to claim up to 50% of costs paid or incurred for the purchase of durable medical equipment that is prescribed by a licensed health care provider to a child with a complex medical condition. The tax credit would be capped at $5,000 a year per child, and anything in excess of that amount would be carried over to the following taxable year.

SB 785 is the first of its kind in California. It will relieve the financial stress of parents managing the costs of medical services, drugs, therapy, and medical equipment necessary for their children with complex medical conditions, and will improve the quality of life for children living in our state.

2) This bill is supported by Maxim Healthcare Services, which notes the following:

As you know, private duty nursing, or PDN, is skilled, in-home nursing care provided to medically fragile children and adults provided under Medi-Cal. PDN care is an alternative to more costly hospital settings and where families overwhelmingly prefer to be. Unfortunately, Medi-Cal rates for PDN in California are some of the lowest in the western half of the United States, putting medically fragile children in the state, many who require ventilators or tracheostomies, at risk.

Last year, the California legislature and Governor Newsom recognized the importance of PDN and included a 40 percent rate increase in the budget to help keep children out of the hospital and at home with their families. Sadly, the passage of Proposition 35 in November 2024 nullified that increase.

Your legislation recognizes that PDN patients are facing a crisis, and they need support. While our ultimate hope is for a permanent increase to the PDN Medi-Cal reimbursement rate, we support any initiatives that will help provide clinical and financial relief to our patient families[.]

3) The FTB has identified the following consideration in its staff analysis of this bill:

Because FTB has general authority to prescribe guidance for tax administration, Section 17052.30(e) is unnecessary. However, if Section 17052.30(e) is not removed, because the bill does not specify otherwise, the FTB would be subject to the rulemaking procedures required under the Administrative Procedure Act (APA) (Government Code section 11340 et seq.). Following APA procedures may delay the immediate implementation of the bill. To prevent delays, it is recommended that the author add a provision exempting the FTB from the APA should prescribing rules, guidelines, or procedures remain in the bill.

4) Committee Staff Comments:

   a) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. 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 (in the form of foregone revenues).

      As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

   b) *What would this bill do*? This bill would allow a credit under the PIT Law equal to 50% of a taxpayer's qualified expenditures, not to exceed $5,000 per taxable year for each qualifying dependent with complex medical conditions. This bill defines "qualified expenditures", in turn, as unreimbursed expenses paid or incurred for durable medical equipment prescribed by a licensed healthcare provider for use by the qualifying dependent. To this end, the author notes:

      > Families face enormous out-of-pocket costs even when they have private insurance or Medi-Cal. Without access to essential DME, children with complex medical conditions experience delays in care, hospitalization, and in extreme cases, institutionalization.

   c) *Open questions*:

      i) *The $5,000 cap*: As noted above, this bill provides a credit equal to 50% of a taxpayer's qualified expenditures during the taxable year, "not to exceed five thousand dollars ($5,000) per taxable year for each qualifying dependent." Committee staff assumes that the $5,000 limit applies to the per-dependent credit amount, but it could also be read as applying to qualified expenditures. To avoid ambiguity, the author and Committee may wish to adopt amendments clarifying the bill's intent.

      ii) *Potential double dipping*: This bill specifies that if a taxpayer claims a credit, any deduction otherwise allowed for qualifying expenses shall be reduced by the amount of the credit allowed. Thus, if a taxpayer incurs qualifying expenses of $3,000, they would potentially be entitled to a $1,500 credit and a deduction for the remaining $1,500 of expenses. Thus, certain taxpayers could potentially receive multiple benefits for the same item of expense. If this is contrary to the author's intent, clarifying amendments should be taken.

d) *Suggested technical amendments*: Committee staff suggests adoption of the following technical amendments:

   i) On page 3, in line 21, strike "that" and insert "who";

   ii) On page 3, in line 29, strike "or"; and,

   iii) On page 4, delete lines 2 through 4, given that the FTB already has this authority.

e) *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 the Committee's policy on both Section 41 and sunsets.

f) *Related legislation*:

   i) AB 547 (Tangipa) would have allowed a credit to a qualified taxpayer, as defined, for the qualified expenses of in vitro fertilization, as specified. AB 547 was held on the Assembly Committee on Appropriations' Suspense File.

   ii) AB 1431 (Tangipa)would have allowed a credit for certain health care providers who perform services in a rural area of the state. AB 1431 was held on this Committee's Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

Aveanna Healthcare
California Association for Health Services at Home
Maxim Healthcare Services
Pediatric Day Health Care Coalition
Prime Home Health

Opposition

None on file

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