
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

Bill No: AB 1633
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Version: 1/26/26
Consultant: Grinnell

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Tax Levy: Yes
Fiscal: Yes

TAXATION: PRIVATE DETENTION FACILITIES

Imposes an annual tax on “private detention facility operators” equal to 50% of the operator’s gross receipts derived from the operation of each “private detention facility” in California.

Background

Corporate income tax. While some states apply taxes on a business’s gross receipts, California taxes net apportioned *business* income and allocated net *nonbusiness* income of corporations doing business in California at a rate of 8.84%, or imposes the \$800 minimum tax, whichever is greater. California applies the combined report method for corporate taxation. This method requires a corporation computing its California tax liability to include the tax returns of each of its unitary subsidiaries and affiliates into one report. The combined report method generally allows for the cancellation of any intercompany transactions, such as dividends paid from a subsidiary to its corporate parent. However, taxpaying corporations can elect to exclude the income and expenses of its foreign subsidiaries from its combined report, called the “water’s edge” election, with some exceptions.

State excise taxes. State law imposes several excise taxes, including on cigarettes and tobacco products, alcoholic beverages, motor vehicle and diesel fuel, and cannabis, among others. Recently enacted state excise taxes include:

- SB 395 (Caballero, 2021), which, among other provisions, imposed a tax on consumers of electronic cigarettes collected by retailers, and continuously appropriated its proceeds to various health care purposes.
- AB 28 (Gabriel, 2021), which established an excise tax on licensed firearms dealers, firearms manufacturers, and ammunition vendors to fund programs that address the causes and harms of gun violence at a rate of 11% of the gross receipts from the retail sale of any firearm, firearm precursor part, or ammunition.

Excise taxes generally have a dual benefit when applied to vices or other social harms: first, they deter behavior with negative or damaging health or societal effects, such as consuming tobacco or cannabis, by increasing its cost, and second, they generate revenue to help pay for public services.

Most of the state’s excise taxes contain their own provisions governing administration of the excise tax, such as requirements to register with the California Department of Tax and Fee Administration (CDTFA), enforcement, collections, penalties, and appeals, among others. Others enact more basic provisions and instead link to the Fee Collections Procedures Law

(FCPL), which is the state's general statute that CDTFA uses to administer its special taxes and fees.

Private prisons. The federal government contracts with private detention facilities throughout the country to house immigration detainees and federal criminal pretrial detainees. On May 15, 2026, Attorney General Rob Bonta released the Department of Justice (DOJ)'s fifth report on immigration detention facilities operating in California, where noncitizens are detained by Immigration and Customs Enforcement, pursuant to a requirement enacted by the Legislature (AB 103, Committee on Budget, 2017).

The report found that conditions in these facilities had largely worsened as the Trump Administration's mass deportation campaign led to overcrowding and strained resources, especially impacting access to medical care and conditions of confinement. Tragically, there were six deaths of detainees between September 2025 and March 2026 — the highest number since the DOJ started conducting reviews in 2017. These deaths, coupled with DOJ's findings of substandard conditions that fail to meet ICE's own detention standards, raise serious concerns about these facilities' ability to safely detain a growing detainee population and underscore the need for greater accountability and oversight.

According to USA Spending, the federal government has paid out \$604.9 million in contracts related to the operation of 12 California-based private detention facilities, operated by CoreCivic (five), GEO Group (six), and Management and Training Corporation (one). From 2023 to 2024, outlays rose from \$116.0 million to \$321.2 million, and in 2025, they increased further to \$388.3 million. According to IBISWorld, revenue for California's private detention facilities is projected to reach \$600 million in the 2027-28 fiscal year, followed by a 2% decline in subsequent years.

AB 32 (Bonta, 2019) prohibited California Department of Corrections and Rehabilitation (CDCR) from entering into, or renewing contracts with private for-profit prisons after January 1, 2020, and eliminates their use by January 1, 2028. AB 32 also prohibits the operation of a private detention facility (including those housing immigration detainees) within the state, with some exceptions. However, the federal government challenged AB 32, and the United States Court of Appeals for the Ninth Circuit held that the statute violated the Supremacy Clause of the United States Constitution (*Geo Group, Inc. v. Newsom*, 50 F.4th 745 (2022)). A summary of the decision stated:¹

The panel held that AB 32 discriminated against the federal government in violation of the intergovernmental immunity doctrine. A State violates the discriminatory aspect of intergovernmental immunity when it treats the state more favorably than the federal government without justification. Discrimination exists where the net effects of a state law discriminate against the federal government. The panel held that under this net effect analysis, AB 32 discriminated against the federal government where AB 32 required the federal government to close all its detention facilities, including its ICE facilities, and will not require California to close any of its private detention facilities until 2028.

According to the Assembly Revenue & Taxation Committee:

¹ <https://law.justia.com/cases/federal/appellate-courts/ca9/20-56172/20-56172-2021-10-05.html>

In sum, the Ninth Circuit held that AB 32 both improperly dictated who the federal government could contract with in order to carry out its obligations and frustrated the ability of their proxies to function in California so as to create an obstacle for the federal government to engage in immigration detention. Therefore, California's attempt to ban private detention facilities in the state amounted to unconstitutional control of the federal government and discrimination against those who contract with the federal government by the state in violation of the Supremacy Clause.

Seeking to reduce incentives for companies to profit from mass immigration detention, and help the state respond to the harm caused by immigration raids and mass arrests, the author wants to impose a gross receipts tax on private prison operators to fund immigration services.

Proposed Law

Assembly Bill 1633 imposes an annual tax upon all “private detention facility operators” equal to 50% of the operator’s gross receipts derived from the operation of each “private detention facility” in California, commencing January 1, 2027. AB 1633 provides that the tax applies regardless of whether the contracting agency is federal, state, or local.

The bill directs CDTFA to administer and collect the tax imposed by this bill using the FCPL, authorizes CDTFA to issue regulations to implement the bill, including emergency regulations. CDTFA must deposit revenues from the tax into the Due Process for All Fund, which the bill creates in the State Treasury. The Legislature can appropriate money from the Fund for immigration-related services.

The bill defines “gross receipts” as “all amounts received by a private detention facility operator pursuant to all contracts relating to the operation of private detention facilities located in California,” as well as other terms by reference to the Government Code.

State Revenue Impact

This bill would result in an estimated revenue gain of \$177.4 million in FY 2027/28.

Comments

1. **Purpose of the bill.** According to the author “Corporations such as GEO Group and CoreCivic continue to profit from operating private, for profit detention facilities in California, despite longstanding concerns about unsafe conditions, inadequate medical care, and lack of accountability in civil detention settings. In 2026 alone, at least six individuals have died in ICE custody nationwide, underscoring the serious risks associated with this system. California has a duty to protect the health and safety of its residents, and the state has a responsibility to ensure that corporations profiting from private detention are held accountable. AB 1633 seeks to do so by imposing a gross receipts tax on private detention operators and directing the revenue towards immigration services and due process protections.”

2. **Precedents.** AB 1633 sets at least two important precedents. First, the measure takes one item of income that is included for the purpose of determining net income for California’s Corporation Tax – gross receipts derived from the operation of private detention facilities in California – and instead subjects it to a gross receipts tax where taxpayers can neither deduct

expenses nor apply credits. AB 1633 would treat one item of business income differently than all others. Because the measure does not exclude the gross receipts subject to its tax from the Personal Income and Corporation Taxes, the same items of income would be subject to tax twice. Second, proceeds of the state's general taxes – Personal Income, Corporation, and Sales and Use – flow to the General Fund, from which the Legislature appropriates them in the Budget Act. AB 1633 would instead allocate its revenues outside the Budget Act to the Due Process for All Fund, only allowing the Legislature to then appropriate those funds for purposes of immigration-related services. The Legislature can appropriate any funds it wishes for those purposes by appropriation or the Budget Act. Lastly, the measure isn't clear whether additional revenues are subject to Proposition 98's K-14 educational guarantee or whether Proposition 2's Budget reserve must be satisfied before the Controller transfers moneys from the General Fund to the Due Process for All Fund.

3. Different means, same goal? The Legislature previously attempted to phase out the use of private prisons in AB 32. However, federal courts held that the statute violated the Supremacy Clause of the United States Constitution. By imposing a gross receipts tax equal to 50% of gross receipts received by a private detention facility operator pursuant to all contracts relating to the operation of private detention facilities, will courts view AB 1633's goal any differently? As noted above, California does not currently impose any business taxes measured by gross receipts. Additionally, AB 1633's tax rate is much higher relative to other taxes: if an operator received \$50 million in annual gross receipts subject to the bill's tax, its tax bill is \$25 million, leaving \$25 million to fund its operations and pay other taxes. As a result, an operator's profit margin would have to be at least 50% to pay AB 1633's tax. Proponents argue that this bill is distinguishable from AB 32 because it does not prohibit private detention facilities in California, but instead taxes the revenues generated by their operation to partially offset the resulting negative impacts on California immigrant communities. The measure also applies regardless of whether the contracting agency is federal, state, or local.

4. Right rate? The state's current excise taxes are mostly volume-based (gasoline, tobacco, alcohol), but the ones measured by sales prices apply at much lower rates: Firearms and ammunition (11%) E-cigarettes (12.5%), Cannabis (15% to 19%). Those tax rates are generally part of the tax base of the Sales and Use Tax, where rates can be as high as 11.25%. The State's Corporation Tax rate (8.84%) and highest Personal Income Tax rate (13.3%) are much lower as well.

5. Implementation. AB 1633 would benefit from additional administrative measures:

- Delaying implementation. While the universe of private prison operators is not high, CDTFA will have to design returns, publish guidance, and update technology necessary to process returns and payments. Implementing a tax by January 1, 2027, is likely infeasible.
- General Fund Loan. While the measure allows CDTFA to deduct its administrative costs from tax revenues before distributing funds, it will incur initial administrative costs before the measure generates any revenue.
- Reporting period. The bill should state when taxes are due and payable (either quarterly or annually) and be submitted by operators, accompanied by a return using electronic media, by a specific due date. CDTFA should also be able to authenticate returns in a form or pursuant to methods as it prescribes, as well as require the payment of the tax and the filing of returns for other than quarterly or annual periods.

- Registration. Directing operators to register for a permit with the department using electronic media, setting forth the name under which it transacts or intends to transact business, and any other information as CDTFA may require.
- Definition of gross receipts. It's unclear whether contracts with the federal government to provide services other than immigrant deduction constitute gross receipts subject to tax, such as building and construction, or skip-tracing.

6. Related legislation, part one. AB 1633 follows other efforts to impose taxes on private prison operators:

- AB 43 (Thurmond, 2017), AB 2303 (Thurmond, 2018), and AB 2560 (Thurmond, 2018) proposed taxes measured by the value of the contract between a person and the CDCR. None of these measures advanced from the Assembly Revenue & Taxation Committee.
- While not related to private prisons, in 2024, the Senate approved SB 1327 (Glazer), which imposed a tax on the gross receipts derived from “data extraction transactions,” as defined. The measure allowed taxpayers to deduct its gross receipts tax from net income for Personal Income and Corporation Tax purposes.

7. Related legislation, part two. At its June 24th hearing, the Committee will also consider:

- AB 1675 (Lee), which would enact the No Tax Breaks for ICE Contractors Act of 2026, which would make any corporation that provides goods or services pursuant to contracts with DHS, either directly or through subcontracts, ineligible for tax against the Corporation Tax.
- AB 2465 (Ortega), which would make ineligible for any tax credit under the Personal Income Tax or Corporation Taxes any business entity that is directly invested in, owns, manages, or profits from a private detention facility or contracts with a private detention facility or agency engaging in immigration enforcement for the purpose of aiding in or furthering immigration enforcement.

8. 2/3. AB 1633 constitutes a change in state statute that would result in any taxpayer paying a higher tax, which requires a 2/3 vote by each house of the Legislature to be enacted under Section 3 of Article XIII A of the California Constitution.

Assembly Actions

Assembly Revenue & Taxation Committee:	5-2
Assembly Appropriations Committee:	11-4
Assembly Floor:	59-18

Support and Opposition (6/18/26)

Support: State Superintendent of Public Instruction Tony Thurmond (Sponsor)
 805 Undocufund
 AAPIs for Civic Empowerment
 ACCE Action
 Access Reproductive Justice
 Alianza Sacramento
 Alliance for a Better Community

Asian Law Caucus
Black LGBTQIA+ Migrant Project
Buen Vecino
Building Skills Partnership
California Alliance for Retired Americans
California Coalition for Women Prisoners
California Community Foundation
California Dignity not Detention Coalition
California Federation of Teachers
California Food and Farming Network
California Immigrant Policy Center
California Immigrant Youth Justice Alliance
California Immigration Project
California Latinas for Reproductive Justice
California National Organization for Women
California Native Vote Project
California Partnership to End Domestic Violence
California School Employees Association
California Teachers Association
California Work & Family Coalition
Californians United for a Responsible Budget
Central Valley Immigrant Integration Collaborative
Centro Binacional Para El Desarrollo Indigena Oaxaqueño
Chicano Federation of San Diego County
Chinese for Affirmative Action
Chispa
City of Los Angeles
Communities United for Restorative Youth Justice
Community Healers, Inc.
Congregations Organized for Prophetic Engagement (COPE)
Council on American-Islamic Relations, California
Courage California
Democrats of Rossmoor
Dignity Not Detention Coalition
Drug Policy Alliance
East Bay Sanctuary Covenant
Empowering Marginalized Asian Communities
Ensuring Opportunity Contra Costa
Episcopal Diocese of San Joaquin
Equality California
Felony Murder Elimination Project
Freedom for Immigrants
Friends Committee on Legislation of California
Future Leaders of America
Health in Partnership
Healthy Contra Costa
Immigrant Justice in Action Coalition
Immigrant Legal Resource Center
Immigrants Rising
Imperial Valley Equity & Justice Coalition

Indivisible Alta-Pasadena
Indivisible California: StateStrong
Indivisible Euclid
Indivisible Fair Oaks-Carmichael
Indivisible Mid-Peninsula
Indivisible San Francisco
Inland Coalition for Immigrant Justice
Interfaith Movement for Human Integrity
Jewish Family Community Services East Bay
Justice2Jobs Coalition
Kern Welcoming and Extending Solidarity to Immigrant
LA Defensa
LA Voice
Latino Health Access
Legal Aid At Work
Lift Up Contra Costa
Majdal Arab Community Center of San Diego
Mid-City Community Advocacy Network
Mixteco/Indigena Community Organizing Project
Multi-Faith Action Coalition
New Light Wellness
NextGen California
NorCal Resist
Oasis Legal Services
ORALE: Organizing Rooted in Abolition Liberation and Empowerment
Orange County Equality Coalition
Orange County Rapid Response Network
Oxnard Union High School District
Pacifica Social Justice
Pangea Legal Services
Parent Voices California
Pico California
Pilipino Workers Center of Southern California
Public Counsel
Rad Jews of OC-LBC
Restoring Hope California
Rising Juntos
Riverside Sheriffs' Association
San Bernardino Community Service Center, Inc.
San Francisco Board of Supervisors
Santa Monica Democratic Club
Services, Immigrant Rights and Education Network
Social Justice Collaborative
South Asian Network
Southeast Asia Resource Action Center
Street Level Health Project
Thai Community Development Center
The California LGBTQ Health and Human Services Network
The Children's Partnership
The Fund for Santa Barbara

The TransLatin@ Coalition
Tsuru for Solidarity
TWW/Indivisible Los Gatos
Uncommon Law
Unidos 805
United Nations Association – UC Santa Barbara
Universidad Popular
Western Center on Law & Poverty
Working Partnerships USA

Opposition: San Fernando Valley Alliance

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