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# SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

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**Bill No:** AB 1400 **Hearing Date:** June 28, 2023  
**Author:** Bryan  
**Version:** June 19, 2023  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** Student financial aid: College Access Tax Credit Fund: community college student transfers: Historically Black Colleges and Universities.

**Note:** This bill has been referred to the Committees on Education and *Governance and Finance*. A "do pass" motion should include referral to the Committee on *Governance and Finance*.

## SUMMARY

This bill re-purposes the College Access Tax Credit Fund (CATC), which was established to supplement Cal Grant awards for students enrolled at California-based colleges, to instead be used to cover college costs for California Community College (CCC) students seeking to transfer to a historically black colleges and universities (HBCU) located outside of California, as defined.

## BACKGROUND

Existing law:

*Federal law*

- 1) Defines the term "HBCU" (specifying it as part B institutions) as a school of higher learning that was accredited and established before 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs, as specified, and was formally recognized by the National Center for Education Statistics (NCES) as a HBCU, but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution (Section 322(a) of the Higher Education Act of 1965, as amended. (HEA); 20 U.S.C., Section 1061)
- 2) Authorizes the HBCUs program and the Historically Black Graduate Institutions (HBGI) program, both of which award grants to eligible institutions to assist them in strengthening their academic, administrative, and fiscal capabilities. These programs are typically funded through annual discretionary appropriations. (HEA, Title III-B)

- 3) Stipulates that in order to be eligible to participate in either the HBCU or HBGI program, per (2) above, entities must meet the following requirements:
  - a) Be legally authorized by the State in which it is located.
  - b) Be at least a junior or community college.
  - c) Provide an educational program for which it awards a bachelor's degree.
  - d) Be accredited or preaccredited by a nationally recognized accrediting agency or association. (Title 34, Subtitle B, Chapter VI, Part 608, Subpart A, Section 608.2(a), Code of Federal Regulations (CFR))
- 4) Lists the specific institutions of higher education that have been deemed a HBCU, per (1) above. (Title 34, Subtitle B, Chapter VI, Part 608, Subpart A, Section 608.2(b), CFR)

*State law*

- 5) Establishes the California Student Aid Commission (Commission) for the purpose of administering specified student financial aid programs (Education Code (EC) Section 69510, et seq.)
- 6) Establishes the Cal Grant program, administered by the Commission, to provide grants to financially needy students to attend a college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. The program consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs, and eligibility is based upon financial need, grade point average (GPA), California residency, and other criteria. Maximum award amounts for California State University and University of California are established in the annual Budget Act and have traditionally covered all systemwide tuition and fees. Supplemental Cal Grant awards programs are available to students with dependent child(ren) and former and current foster youth attending CSU, UC, or a CCC to assist with non-tuition costs such as living expenses. (EC Sections 69430 – 69433 and Sections 69465 - 69470)
- 7) Allows, for taxable years beginning on or after January 1, 2017, and before January 1, 2028, a CATC against the “net tax,” as specified, in an amount equal to 50% of the amount contributed by a taxpayer to the CATC Fund, as allocated and certified by the California Educational Facilities Authority (CEFA). Limits the maximum aggregate amount of credit that may be allocated and certified by CEFA to \$500 million. Provides that any unused credits may be carried forward for up to six years and creates the CATC Fund as a special fund in the State Treasury, and allocates revenues as follows:
  - a) First to the General Fund in an amount equal to the aggregate amount of credits allowed, as specified.

- b) Second, upon appropriation, to the Department of Insurance, Franchise Tax Board (FTB), CEFA, State Controller, and the commission for reimbursement of all administrative costs incurred in connection with the CATC and CATC Fund.
- c) Third, upon appropriation, to CEFA for outreach purpose to inform taxpayers about the CATC Fund and the credits allowed.
- d) Fourth, continuous appropriation of remaining revenue to CSAC for purposes of awarding Cal Grants, as specified. (Revenue and Taxation Code Section 17053.87)

## ANALYSIS

This bill repurposes the CATC Fund, which was established to supplement Cal Grant awards for students enrolled at California-based colleges, to instead be used to cover college costs for CCC students seeking to transfer to an HBCU located outside of California. Specifically, it:

- 1) Sunsets provisions that establish the CATC Fund for purposes of supplementing other moneys appropriated for the Cal Grant Program.
- 2) Requires that moneys allocated to the Commission from the CATC Fund, as prescribed, be made available for the purpose of making awards for participating students.
- 3) Commencing with the 2024–25 award year, authorizes the Commission to make disbursements of awards for the specified allocation directly to partnered HBCUs for postsecondary costs of their participating students and requires that the awards:
  - a) Be limited to one award per participating student.
  - b) Not exceed \$5,000, as determined by the commission based on the availability of moneys allocated to the commission and the financial need of the student.
  - c) Are payable only to the extent that moneys are available from the fund.
- 4) Requires the Commission to inform each recipient that the award is a one-time grant, and in making awards, give priority to students with the greatest unmet financial need who do not exceed the maximum household income and asset level for an applicant for a Cal Grant B award.
- 5) Requires a participating student to file a statement of intent form stating that the student will enroll at a partnered HBCU and return to California after graduation from a partnered HBCU.

- 6) Authorizes the commission to make disbursements in any fiscal year in which it determines there are sufficient funds and provides that if the Commission determines it would be in the best interest of the program, it can roll over moneys for disbursement in future fiscal years.
- 7) Requires, if, after making disbursements as prescribed in the bill, moneys remain in the fund, those moneys remain in the fund for allocation in future fiscal years.
- 8) Authorizes the Commission to adopt regulations for purposes of implementing and administering the bill's provisions.
- 9) Defines various terms for purposes of the bill, including:
  - a) "Fund" means the College Access Tax Credit Fund established pursuant to Section 17053.87 of the Revenue and Taxation Code.
  - b) "HBCUs" means the colleges and universities listed as "Historically Black Colleges and Universities" by the NCES.
  - c) "Participating students" means students who have completed the associate degree for transfer pathway and qualify to receive an award pursuant to this section.
  - d) "Partnered HBCUs" means HBCUs that satisfy both of the following:
    - i) Have an associate degree for transfer memoranda of understanding on file with the chancellor's office.
    - ii) Satisfy a three-year student loan cohort default and not have a graduation rate of less than 30 percent, as specified in current law for Cal Grant eligibility.
  - e) "Postsecondary costs" means any costs of attendance for participating students at partnered HBCUs.
- 10) Makes various findings and declarations relating to the CATC Fund program not meeting its goal of providing meaningful award increases to Cal Grant B recipients, and the bill's provisions would target its resources on a smaller student population, thereby facilitating substantive increases to program funded grants.
- 11) Makes conforming changes to the tax code.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "The many programs established under the California Student Aid Commission (CSAC) and by other legislation seek to provide pathways to higher education that are responsive to the unique backgrounds and barriers faced by California students, such as the California Chafee Grant for Foster Youth, the Law Enforcement Personnel Dependents

Grant Program (LEPD), the California Dream Act, and others. Decades of studies show the persistent social and economic barriers Black students face resulting in overall lower academic performance and educational attainment than their peers as well as the long-term effects of lower income and less professional stability and growth. Attendance at an HBCU is one of the clear positive influences on these academic and professional outcomes for Black students. They provide culturally responsive, racially sensitive environments where they can fully engage with confidence.

Today, in part due to changes in Federal tax law, the College Access Tax Credit (CATC) as currently structured provides only \$1.50 to each eligible student. AB 1400 would allocate this existing funding stream in a more targeted fashion, providing meaningful financial support (a \$5,000 award per eligible student) to Californians transferring from Community College to HBCUs. By refocusing this support on students committed to returning to California after graduation, we will help build a valuable educational and economic pipeline from California to HBCUs nationwide – and back to California.”

- 2) **Historically Black Colleges and Universities.** There are no HBCUs in California. According to NCES, HBCUs are institutions that were established prior to 1964 with the principal mission of educating Black individuals. These institutions were founded and developed in an environment of legal segregation and, by providing access to higher education, they have contributed substantially to the progress Black Americans made in improving their status.

HBCUs include public and private institutions that vary in size and degree programs and are located primarily in the South and on the East Coast. Specifically, per the NCES, as of 2022, there are over 100 HBCUs located in 19 states, the District of Columbia, and the U.S. Virgin Islands. Of the over 100 HBCUs, at least 50 are public institutions and at least 49 are private nonprofit institutions.

Although HBCUs were originally founded to educate Black students, they enroll students of other races as well. The composition of HBCUs has changed over time. In 2020, non-Black students made up 24% of enrollment at HBCUs, compared with 15% in 1976.

- 3) **California Community College Transfer Agreements.** In November of 2013, the El Camino Community College District initiated a pilot program to explore the possibility of formalizing transfer pathway agreements between HBCU institutions and the CCC system, using Associate Degrees for Transfer, as the framework to support the agreements. The pilot represented the CCC system’s first attempt beyond the CSU system to forge new partnerships using ADTs as articulation at the degree-level, and representative of lower-division transfer preparation fulfillment in both general education and major preparation. Before ADTs, the CCC system’s relationship with HBCUs comprised of individual college efforts using traditional course-to-course articulation methods. The pilot has grown over the span of several years; the name has changed to the California Community Colleges Transfer Guarantee to HBCUs Program.

The objective of the CCC Transfer Guarantee to HBCUs Program is the development of transfer pathways that will facilitate a smooth transition for students from all of the CCC to partnered HBCUs. These pathways will simplify the transfer process and reduce students' need to take unnecessary courses, thereby shortening the time to degree completion and saving student costs.

According to the CCC Chancellor's Office, 39 HBCUs have MOUs in place with the CCC. All of these institutions are regionally accredited by an agency recognized by the United State Department of Education. While data for academic year 2022–23 is still being collected, the most recent data shows how many California students with ADTs transferred to participating HBCUs: 93 in 2019–2020, 73 in 2020–21, and 60 in 2021–2022.

- 4) **The College Access Tax Credit.** CATC allows taxpayers to make charitable contributions to provide financial aid to postsecondary students receiving a Cal Grant B award from the Commission. Cal Grant B eligibility is limited to in-state colleges. At its height, the program generated \$5.9 million total and provided about \$25 per student. However, after decreases to the tax credit's revenue to \$412,000 annually due to federal tax changes, the Commission reports the program provides \$1.50 per student. About 289,000 students receive a Cal Grant B. This bill grants priority to low income students who meet the income threshold set in Cal Grant B, students who exceed that limit may qualify for an award, but are last in line.
- 5) **Things to consider.** *This bill attempts to reallocate a pre-existing fund that was initially created to provide additional financial aid to low-income students enrolled in California-based colleges and universities. Although the CATC Fund has experienced a reduction in its funding, which has resulted in its inability to effectively serve the number of students eligible for the benefit, the committee may wish to consider whether funding out-of-state college costs is the appropriate use of those funds. Could a similar objective be achieved while retaining and supporting students within the state?*

*Only one other program, aimed at foster youth, permits students to use their awards outside of California (most recipients stay in California). However, that program additionally receives federal funding and was not established for that sole purpose. The program established in this bill would be the only grant aid program established for students leaving the state with no in-state option. The state has no oversight or consumer protection control over colleges operating outside of this state. If it is the desire of the committee to move this policy forward, it may wish to consider the conditions that the state should impose on any out-of-state college to qualify for state financial aid funding.*

- 6) **Amendments.** The following amendments are intended to strengthen criteria around institutional quality, college enrollment, and the statement of intent to return to California:
- In order to ensure and codify an additional measure of institutional quality, **staff recommends that the bill be amended to** modify the definition of

“Partnered HBCUs” so that, in addition to satisfying the requirements prescribed in the bill, a Partnered HBCU must be regionally accredited by an agency recognized by the United States Department of Education in order to be considered a Partnered HBCU.

- Under the bill's provisions, it is implied that a student be enrolled in a Partnered HBCU, but not explicitly stated. **Staff recommends that the bill be amended to** modify the definition of “participating students” to clarify that a student must be enrolled in one of the HBCUs with an MOU as part of the “California Community College HBCU Transfer Guarantee” program to qualify to receive an award.
- This bill requires participating students to file a statement of intent form stating that they will return to California and enroll at a Partnered HBCU. The bill is silent on what happens if the student does not return to the state or enroll. As such, **staff recommends amending the bill to** specify that an award recipient (pursuant to the bill’s provisions) who does not enroll in an eligible program within one academic year of earning their Associate Degree for Transfer or return to California within two academic years of earning their baccalaureate degree shall agree to repay the state the total funds received.

## SUPPORT

California Student Aid Commission (Sponsor)  
 African American Male Education Network & Development  
 California Community Colleges, Chancellor's Office  
 California Faculty Association  
 Campaign for College Opportunity  
 Cerritos College  
 Citrus Community College District  
 College of the Desert  
 Community College League of California  
 Cosumnes River College  
 Foothill-De Anza Community College District  
 Greater Sacramento Urban League  
 Initiate Justice  
 Monterey Peninsula College  
 Norco College  
 Office of Lieutenant Governor Eleni Kounalakis  
 Pasadena Area Community College District  
 Public Advocates Inc.  
 San Diego City College President's Office  
 San Diego College of Continuing Education  
 Student Senate for California Community Colleges  
 The Education Trust - West  
 The Institute for College Access & Success  
 uAspire  
 Umoja Community Education Foundation

**OPPOSITION**

None received

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