

CONCURRENCE IN SENATE AMENDMENTS

AB 1400 (Bryan)

As Amended July 5, 2023

Majority vote

SUMMARY

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 Historically Black Colleges and Universities (HBCUs) located outside of California, as defined.

Senate Amendments

- 1) Declare that HBCUs, as designated by the federal Higher Education Act of 1965, provide a uniquely supportive educational environment built on a history of diversity, cultural awareness, and positive racial identity.
- 2) Require the California Student Aid Commission (CSAC) to give priority to eligible students with the greatest unmet financial need, as defined, and who do not exceed the maximum household income and asset level for an applicant for a Cal Grant B award.
- 3) Make technical and clarifying amendments.

COMMENTS

The CATC. Established by SB 798 (De León), Chapter 367, Statutes of 2014, the CATC is designed to encourage taxpayers to make charitable contributions to the Cal Grant program, which provides financial aid to low-income California students pursuing postsecondary education.

The structure of the credit is based on a 2013 publication by Phillip Blackman, then Associate Director of Development at the Penn State Dickinson School of Law, and Kirk Stark, Professor and then Vice Dean at the UCLA School of Law, which detailed a means for states to leverage federal funds at minimal cost by creating a state tax credit for cash contributions to a state entity. Titled, *Capturing Federal Dollars with State Charitable Tax Credits*, this concept was based on the Internal Revenue Service's (IRS) position that charitable contributions to non-profits, state governments, or local governments are eligible to be federally deducted as a charitable contribution. While a contribution would not be made with a charitable intent if the contributor expects a direct or indirect benefit, a federal or charitable contribution deduction is not regarded as a return benefit that negates charitable intent.

The original CATC provided a 60% credit, 55% credit, and 50% credit in the 2014, 2015, and 2016 taxable years, respectively, to offset state tax obligations under the Personal Income Tax (PIT) Law, and Corporation Tax (CT) Law. For instance, a taxpayer making a \$100 contribution in 2014 would receive a \$60 credit from the state to reduce state tax liability. The taxpayer could then deduct the full \$100 amount as a charitable contribution on their federal return, which could be worth as much as \$28 depending on the taxpayer's federal tax rate. Thus, the \$100 contribution would only cost the taxpayer \$12, while the remaining \$40 from the contribution could then, upon appropriation, reimburse relevant state agencies for their costs resulting from

administration of CATC and CATC Fund, with the remaining revenue allocated to the Commission for awarding Cal Grants.

SB 81 (Committee on Budget and Fiscal Review), Chapter 22, Statutes 2015, recast certain provisions of the CATC and extended its operation to taxable years beginning on or after January 1, 2017, and before January 1, 2018. Changes to the CATC included expansion to the Insurance Tax (IT) Law, so insurers could apply the credit to their annual tax on gross premiums and continuous appropriation of funds from the CATC Fund to the CSAC for purposes of awarding Cal Grants, rather than upon appropriation. Additionally, for taxable year 2017, SB 81 fixed the CATC at 50% of the amount contributed by a taxpayer, and limited the annual maximum aggregate amount of credit that could be allocated and certified by California Education Facilities Authority (CEFA) to \$500 million, rather than rolling over amounts of unallocated and uncertified credits from the previous year.

The CATC was extended again by AB 490 (Quirk-Silva), Chapter 527, Statutes of 2017, which amended the sunset date of the CATC from taxable years beginning before January 1, 2018, to taxable years beginning before January 1, 2023.

Further, AB 2880 (Mia Bonta), Chapter 976, Statutes of 2022, in part, extended the operation of the CATC to taxable years beginning before January 1, 2028.

Historically Black Colleges and Universities. According to National Center for Education Statistics (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.

The institutions that comprise HBCUs have a proud history and legacy of achievement. HBCUs vary in size and academic focus and serve a range of diverse students and communities in urban rural, and suburban settings. HBCU alumni are leaders in every field and include barrier-breaking public servants, scientists, physicians, artists, attorneys, judges, engineers, educators, and business owners.

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. According to the NCES, the number of HBCU students increased by 47% (from 223,000 to 327,000 students) between 1976 and 2010, then decreased by 15% (to 279,000 students) between 2010 and 2020. In comparison, the number of students in all degree-granting institutions increased 91% (from 11 million to 21 million students) between 1976 and 2010, then decreased 10% (to 19 million students) between 2010 and 2020.

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.

While Black student enrollment at HBCUs increased by 11% between 1976 and 2020, the total number of Black students enrolled in all degree-granting postsecondary institutions more than doubled during this period. As a result, the percentage of Black students enrolled at HBCUs fell from 18% in 1976 to 8% in 2014 and then increased to 9% in 2020.

State higher education partnerships with HBCUs. In November of 2013, the El Camino Community College District was awarded a continuation of a one-award grant. The grant was initially labeled as a pilot with a short duration of 14 months and minimal funding of \$40,000. The primary objective of the pilot was to explore the possibility of formalizing transfer pathway agreements between HBCU institutions and the CCC system, using ADTs 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. According to the CCC Chancellor's Office (CCCCO), the objective, then and now, is to leverage ADTs, versus traditional course-to-course articulation, to simplify the articulation process while also establishing an equitable transfer pathway statewide for all community college students with a specific focus on Black students.

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 CCC 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 CCCC, 39 HBCUs have MOUs in place with the CCC.

Proposition 209 and first of its kind? While some entities have questioned if the provisions of this measure violate Proposition 209, because HBCUs offer admission to any qualified applicant regardless of ethnicity, it does not appear that this measure would violate Proposition 209.

Some entities have also questioned if this measure will be the first of its kind, whereby eligible California students would be able to use State dollars to apply to their cost of attendance at an out-of-state college or university. However, this would not be a first. Despite the misconception that the Chaffee Grant [which provides financial aid to eligible current and former foster youth] is only federally funded, it is not. The State funds portions of the Grant, and the CSAC administers the Grant. Students with the Chaffee Grant can use their Chaffee Grant award funds and attend any California or out-of- state college or university.

According to the Author

"The many programs established under the 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 Chaffee Grant for Foster Youth, the Law Enforcement Personnel Dependents Grant Program (LEPD), the California Dream Act, and others."

The author states, "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."

Lastly, per the author, "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."

Arguments in Support

According to the CSAC, sponsors of this measure, "AB 1400 would enhance the College Access Tax Credit to transform the lives of students from disadvantaged and low-income backgrounds. In 2017, a federal law, H.R. 1 ('The Tax Cuts and Jobs Act'), represented the most significant tax code overhaul in over three decades; however, after its enactment the annual revenue derived from the College Access Tax Credit fell from approximately \$5.9 million to \$412,000 due to the impact of the change in the federal tax code on the financial benefit of this tax credit.

At this new level of revenue, the Commission cannot provide a meaningful augmentation to the Cal Grant B awards that the program was initially designed to supplement. In 2021-22, there were 268,901 Cal Grant B recipients and with only \$412,000 in CATC Funds it would have provided only a \$1.50 for each recipient.

AB 1400 addresses both the College Access Tax Credit funding issues and another gap in California's college affordability provisions by revising eligibility criteria to focus on a smaller population student, substantially increasing award levels. AB 1400 would utilize funds generated by the tax credit to provide an award of up to \$5,000 to CCC transfer students that enroll in HBCU institutions with a formal transfer agreement with the CCC Chancellor's Office.

Given other initiatives underway by professional or graduate schools in California to recruit HBCU graduates, AB 1400 would be a valuable tool in fostering an HBCU-California pipeline that helps further diversify those programs and related professions, as well as providing greater choice to our CCC transfer students."

Arguments in Opposition

None on file as it pertains to this measure.

FISCAL COMMENTS

According to the Senate Committee on Appropriations:

- 1) The CSAC estimates a fund shift of about \$412,000 each year from the College Access Tax Credit Fund from one purpose to another. Assuming that each student receives the full award amount of \$5,000, there would 80 students that receive an award each year. As currently structured, the grant only provides \$1.50 to each of the 289,000 Cal Grant B recipients.
- 2) The CSAC estimates that any costs to administer the program would be minor and absorbable within existing resources, as it would shift staff from the administration of the prior program to the new program. However, there could be one-time General Fund costs of

about \$52,000 to make changes necessary to implement the program, such as adopting regulations.

VOTES:**ASM HIGHER EDUCATION: 11-0-1**

YES: Mike Fong, Ta, Addis, Arambula, Gabriel, Irwin, Low, Ortega, Santiago, Wallis, Weber
ABS, ABST OR NV: Sanchez

ASM REVENUE AND TAXATION: 11-0-0

YES: Irwin, Wallis, Bains, Grayson, Pacheco, Jim Patterson, Petrie-Norris, Luz Rivas, Ta, Valencia, Zbur

ASM APPROPRIATIONS: 14-0-2

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Weber, Ortega
ABS, ABST OR NV: Robert Rivas, Sanchez

ASSEMBLY FLOOR: 76-0-4

YES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
ABS, ABST OR NV: Aguiar-Curry, Mathis, Papan, Sanchez

UPDATED

VERSION: July 5, 2023

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FN: 0002359