

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1400 (Bryan) – As Amended March 23, 2023

[Note: This bill is double referred to the Assembly Committee on Revenue and Taxation and will be heard by that Committee as it relates to issues under its jurisdiction.]

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

SUMMARY: Authorizes the College Access Tax Credit (CATC) Fund moneys that are continuously appropriated to the California Student Aid Commission (CSAC) to be used for awards for qualifying California Community College (CCC) student transfers to Historically Black Colleges and Universities (HBCUs) that have an Associate Degree for Transfer (ADT) memoranda of understanding (MOU) with the CCC Chancellor's Office (CCCCO). Specifically, **this bill:**

- 1) Makes several Legislative findings and declarations, including, but not limited to, the following:
 - a) The College Access Tax Credit Fund (CATC) Fund Program seeks to increase Cal Grant B funding to provide a greater level of support for low-income students. However, the CATC Fund Program lacks adequate resources to accommodate the overwhelming student demand for Cal Grant B awards;
 - b) The CATC Fund Program cannot currently meet its goal of providing meaningful award increases to Cal Grant B recipients; and,
 - c) By reducing the pool of eligible CATC Fund-funded grant applicants to less than 100 students, this measure would enable the CATC Fund Program to issue awards of up to \$5,000.
- 2) Specifies, commencing with the 2024-2025 award year, CSAC may make disbursements of awards from the moneys allocated to CSAC directly to partnered HBCUs for postsecondary costs of their participating students.
- 3) Authorizes that a participating student may only receive one award in an amount that does not exceed \$5,000, as determined by CSAC based on the availability of moneys allocated to CSAC and the financial need of the student.
- 4) Stipulates that an award is payable only to the extent that moneys are available from the CATC Fund.
- 5) Requires CSAC to inform each recipient of an award that the award is a one-time grant.
- 6) Requires a participating student must file a statement of intent form stating that the student will enroll at a partnered HBCU and return to California after graduating from a partnered HBCU.

- 7) Authorizes CSAC to make disbursements in any fiscal year in which CSAC determines that there are sufficient funds. If CSAC determines it would be in the best interest of the program, CSAC may roll over moneys allocated to CSAC for disbursement in future fiscal years.
- 8) Authorizes CSAC to adopt regulations for purposes of implementing and administering the provisions of this measure.
- 9) Defines the following terms for purposes of this measure:
 - a) “Chancellor’s office” means the office of the Chancellor of the California Community Colleges;
 - b) “Fund” means the CATC Fund established, as specified;
 - c) “HBCUs” means the colleges and universities listed as “Historically Black Colleges and Universities” by the National Center for Education Statistics (NCES);
 - d) “Participating students” means students who have completed the ADT pathway and qualify to receive of an award pursuant to this section;
 - e) “Partnered HBCUs” means HBCUs that satisfy both of the following:
 - i) Have an ADT transfer MOU on file with the chancellor’s office; and,
 - ii) Satisfy specified conditions.
 - f) “Postsecondary costs” means any costs of attendance of participating students at partnered HBCUs.

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 NCES as a Historically Black College or University, 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;
 - a) Be at least a junior or community college;
 - b) Provide an educational program for which it awards a bachelor's degree; and,
 - c) 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.

- 1) Establishes the CSAC for the purpose of administering specified student financial aid programs (Education Code (EC) Section 69510, et seq.)
- 2) Establishes the Cal Grant program, administered by the CSAC, 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 CSU and UC 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).
- 3) 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 CSAC 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; and,
- d) Fourth, continuous appropriation of remaining revenue to CSAC for purposes of awarding Cal Grants, as specified (Revenue and Taxation Code Section 17053.87).

FISCAL EFFECT: Unknown

COMMENTS: *Purpose of the measure.* 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.”

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.”

Additionally, the author states, “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.”

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.”

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 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.

Historic Investments in HBCUs. Despite the record of success of HBCUs and disparities in resources and opportunities for HBCUs, their students persist to obtain degrees. The COVID-19 pandemic highlighted continuing and new challenges for HBCUs. With that in mind, the Biden-Harris Administration prioritized and delivered historic levels of investment in support for HBCUs. Said actions include, in part, the following:

- American Rescue Plan – which provided nearly \$3.7 billion in relief funding to HBCUs; and,
- Fiscal Year (FY) 21 Grant Funding – which, in FY 2021 USDE awarded a total of \$1 billion to build the capacity of institutions that serve large numbers of students of color and low-income students..

Additionally, the Administration signed an Executive Order (EO) to re-establish the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity through HBCUs and issued a proclamation recognizing National HBCU Week. The EO also recognizes the historic underfunding of HBCUs and other institutions that serve large numbers of students of color, with a plan to invest \$20 billion in upgrading research infrastructure for HBCUs. Further, the EO proposes creating a new national lab focused on climate that would be affiliated with an HBCU.

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 CCCCO, 39 HBCUs have MOUs in place with the CCC. While data for academic year 2022-23 is still being collected, the table below shows recent data of how many California students with ADTs transferred to participating HBCUs:

HBCU	2019-2020	2020-2021	2021-2022
Alabama State University	1	2	3
Alcorn State University	5		1
Arkansas Baptist College			
Benedict College	1	2	1
Bennett College			
Bethune-Cookman University	2	2	3
Bowie State University	3	3	1
Central State University			
Clafflin University	1		1
Clark Atlanta University	15	9	8
Dillard University	6	3	1
Edward Waters University			
Fisk University		1	1
Florida Memorial University	1		
Fort Valley State University			1
Grambling State University	3	6	3
Hampton University	1	8	2
HBCU	2019-2020	2020-2021	2021-2022
Harris-Stowe State		1	1

University			
Huston-Tillotson University	1	2	1
Kentucky State University	3		
Lane College	3		1
Lincoln University (Missouri)	1	7	4
Lincoln University (Pennsylvania)	1		
Mississippi Valley State University	2		2
North Carolina Central University	6	2	1
Philander Smith College			
Shaw University	1		2
Southern University at New Orleans		2	1
Southern University and A&M College	3	3	3
Stillman College	2		
Talladega College	3	5	
Tennessee State University	3	2	4
Texas Southern University	15	7	8
Tougaloo College			
Tuskegee University	4	2	
Virginia State University	2		
West Virginia State University		2	2
Wiley College	1		
Xavier University of Louisiana	3	2	4
Total	93	73	60

Committee comments. While some entities question 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.

Another concern was raised questioning 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 Chafee 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 Chafee Grant can use their Chafee Grant award funds and attend any California or out-of-state college or university.

Additionally, as currently drafted, this measure 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 graduating from a partnered HBCU. However, the bill is silent as to how CSAC will know if the student has returned to the State upon graduation. Further, if an award recipient fails to return to the State, will the student have to repay the amount of the grant the student received? What entity would be responsible for collecting repayment from the student?

Moving forward, the author may wish to continue to work with CSAC in determining if more specificity is needed surrounding the return of the student to the State.

Lastly, it appears that the data in the findings and declarations may not be the most recent figures.

Moving forward, the author may wish to work with CSAC and the CCCCCO in order to ensure the most accurate figures are included in the findings and declarations.

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. In 2021-22, 53 CCC transfer students enrolled at 39 eligible HBCU campuses. Unlike other programs, like the Chafee Grant, which current or former foster youth can utilize at out-of-state institutions, there is no such state support available for California students seeking the campus experience that an HBCU can provide.

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.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Colleges, Chancellor's Office
California Student Aid Commission (Sponsor)
Campaign for College Opportunity
Compton Community College District
Greater Sacramento Urban League
Initiate Justice
Los Angeles Community College District
uAspire
Two Individuals

Opposition

None on file.

Analysis Prepared by: Jeanice Warden / HIGHER ED. / (916) 319-3960