

CALIFORNIA EDUCATIONAL FACILITIES FINANCING AUTHORITY (CEFA)

Legislative Update

AB 1400

College Access Tax Credit Fund

December 7, 2023

ACTION:

AB 1400 was signed into law on September 30, 2023 to change the student target population that benefits from the College Access Tax Credit Fund (the Fund) from students that receive Cal Grant B awards to qualifying community college student transfers to regionally accredited Historically Black Colleges and Universities (HBCUs) that have an associate degree for transfer memoranda of understanding on file with the office of the Chancellor of the California Community Colleges. The bill takes effect January 1st.

BACKGROUND:

Chapter 367, Statutes of 2014 (SB 798, DeLeon), signed by the Governor in September 2014, created the Fund for the purposes of 1) attracting private contributions to fund additional Cal Grants to California students and 2) allowing an income tax credit equal to 60%, 55%, and 50% of the amount contributed by an individual or business taxpayer to the Fund in taxable years 2014, 2015, and 2016, respectively. Chapter 22, Statutes of 2015 (SB 81), signed by the Governor in September 2015 extended the Fund to taxable year 2017 and added insurance companies as an allowable contributor to the Fund. Chapter 527, Statutes 2017 (AB 490, Quirk-Silva) signed by the Governor in October 2017, extended the Fund to taxable years 2018-2022. Last year, AB 2880, Bonta, signed by the Governor in September 2022 extended the Fund to taxable year 2027 and allowed CEFA to request funds for outreach purposes to inform taxpayers about the Fund and the tax credits allowed.

And most recently, AB 1400, Bryan, (together with AB 2880, SB 798, SB 81, and AB 490, the "Bills") chaptered into law on September 30, 2023, requires the Fund moneys to be continuously appropriated to the California Student Aid Commission (CSAC) for awards for qualifying community college student transfers to regionally accredited Historically Black Colleges and Universities (HBCUs) that have an associate degree for transfer memoranda of understanding on file with the office of the Chancellor of the California Community Colleges.

CEFA Staff will be updating the website, regulations and information to integrate this amendment once it takes effect. CEFA staff is working with CSAC to implement the change.

In summary, any taxpayer who contributes to the Fund will receive a 50% tax credit on their donation, and the General Fund receives an amount equal to the tax credit, then administrative costs for agencies are deducted, and then the remainder of the contributions go to CSAC towards grants for the student target population.

STATUTORY LANGUAGE:

SECTION 1.

The Legislature finds and declares all of the following:

- (a) The College Access Tax Credit Fund (CATCF) program seeks to increase Cal Grant B funding to provide a greater level of support for low-income students. However, the CATCF program lacks adequate resources to accommodate the overwhelming student demand for Cal Grant B awards.
- (b) The CATCF program cannot currently meet its goal of providing meaningful award increases to Cal Grant B recipients.
- (c) This act targets CATCF program resources on a smaller student population, thereby facilitating substantive increases to CATCF-funded grants. This act would ensure that the CATCF program meets its goal of providing additional financial aid to low-income students and helps the award recipients cover a larger portion of their total cost of attendance.
- (d) In the 2021–22 fiscal year, a total of 53 California Community Colleges (CCC) transfer students enrolled at 39 Historically Black Colleges and Universities (HBCUs) that have associate degree for transfer memoranda of understanding on file with the office of the Chancellor of the California Community Colleges. By reducing the pool of eligible CATCF-funded grant applicants to less than 100 students, this act would enable the CATCF program to issue awards of up to \$5,000.
- (e) This act provides the Student Aid Commission flexibility to make financial aid decisions that best serve students, while achieving efficient operations of the CATCF program.
- (f) 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.

SEC. 2.

Section 69431.7 of the Education Code is amended to read:

69431.7.

- (a) As used in this section, “fund” means the College Access Tax Credit Fund created by Section 17053.87 of the Revenue and Taxation Code.
- (b) Any moneys allocated to the commission from the fund for purposes of this section shall be in addition to, and are intended to supplement, other moneys appropriated for the Cal Grant Program. Upon the creation of the fund, and during its existence, the amount of the Cal Grant B access award as established in the annual Budget Act shall not be adjusted below the amount set forth in the Budget Act of 2012.
- (c)
 - (1) The moneys allocated to the commission pursuant to Section 17053.87 of the Revenue and Taxation Code shall be available for the purpose of making awards to students in accordance with this section.
 - (2) The commission shall make disbursements from the moneys allocated to the commission to supplement awards made for access costs under Article 3 (commencing with Section 69435), Article 4 (commencing with Section 69436), and Article 5 (commencing with Section 69437). The amount of the supplemental award, when added to the amount of the award

made for access costs established by the annual Budget Act, shall not exceed five thousand dollars (\$5,000). An award under this section is payable only to the extent that moneys are available from the fund. The commission shall inform each recipient of an award under this section that the award is for one academic year only, is not an entitlement, and that future supplemental awards are subject to the availability of moneys in the fund.

(3) The commission may make disbursements in any fiscal year in which it determines there are sufficient funds. If the commission determines it would be in the best interest of the program, the commission may roll over moneys allocated to the commission for disbursement in future fiscal years.

(d) If, after making supplemental awards pursuant to subdivision (c), moneys remain in the fund, those moneys shall remain in the fund for allocation in future fiscal years.

(e) This section shall become inoperative on June 30, 2024, and, as of January 1, 2025, is repealed.

SEC. 3.

Article 16 (commencing with Section 69840) is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to read:

Article 16. College Access Tax Credit Awards

69840.

(a) As used in this section, the following definitions apply:

(1) “Chancellor’s office” means the office of the Chancellor of the California Community Colleges.

(2) “Fund” means the College Access Tax Credit Fund established pursuant to Section 17053.87 of the Revenue and Taxation Code.

(3) “HBCUs” means the colleges and universities listed as “Historically Black Colleges and Universities” by the National Center for Education Statistics.

(4) “Participating students” means students who have completed the associate degree for transfer pathway, are enrolled at a partnered HBCU, and qualify to receive an award pursuant to this section.

(5) “Partnered HBCUs” means HBCUs that satisfy all of the following:

(A) Have associate degree for transfer memoranda of understanding on file with the chancellor’s office.

(B) Satisfy subparagraphs (C) and (F) of paragraph (3) of subdivision (l) of Section 69432.7.

(C) Are regionally accredited by an agency recognized by the United States Department of Education.

(6) “Postsecondary costs” means any costs of attendance of participating students at partnered HBCUs.

(b) The moneys allocated to the commission pursuant to Section 17053.87 of the Revenue and Taxation Code shall be available for the purpose of making awards for participating students pursuant to this section.

- (c) (1) Commencing with the 2024–25 award year, the commission may make disbursements of awards from the moneys allocated to the commission directly to partnered HBCUs for postsecondary costs of their participating students.
- (2) A participating student may only receive one award pursuant to this section in an amount that does not exceed five thousand dollars (\$5,000), as determined by the commission based on the availability of moneys allocated to the commission and the financial need of the student.
- (3) In making awards pursuant to this section, the commission shall give priority to students with the greatest unmet financial need, as defined in subdivision (b) of Section 69432.9, who do not exceed the maximum household income and asset level for an applicant for a Cal Grant B award, as set forth in Section 69432.7.
- (4) An award under this section is payable only to the extent that moneys are available from the fund. The commission shall inform each recipient of an award under this section that the award is a one-time grant.
- (5) A participating student shall 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.
- (d) The commission may make disbursements in any fiscal year in which it determines there are sufficient funds. If the commission determines it would be in the best interest of the program, the commission may roll over moneys allocated to the commission for disbursement in future fiscal years.
- (e) If, after making awards pursuant to subdivision (c), moneys remain in the fund, those moneys shall remain in the fund for allocation in future fiscal years.
- (f) The commission may adopt regulations for purposes of implementing and administering this section.

SEC. 4.

Section 17053.87 of the Revenue and Taxation Code is amended to read:

17053.87.

- (a) For the taxable years beginning on or after January 1, 2017, and before January 1, 2028, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to 50 percent of the amount contributed by the taxpayer for the taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.
- (b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section, Section 12207, and Section 23687 shall be an amount equal to five hundred million dollars (\$500,000,000).
- (2) (A) For the purposes of this section, the California Educational Facilities Authority shall do all of the following:
- (i) On a first-come-first-served basis, allocate and certify tax credits to taxpayers under this section.
- (ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities

Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary or appropriate to implement this paragraph.

(ii) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(c) (1) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) (1) The College Access Tax Credit Fund is hereby created as a special fund in the State Treasury. All revenue in this special fund shall be allocated as follows:

(A) First to the General Fund in an amount equal to the aggregate amount of certified credits allowed pursuant to this section and Section 23687 for the taxable year. Funds allocated to the General Fund shall be considered General Fund revenues for purposes of Sections 8 and 8.5 of Article XVI of the California Constitution.

(B) Second, upon appropriation, to the Department of Insurance, the Franchise Tax Board, the California Educational Facilities Authority, the Controller, and the Student Aid Commission for reimbursement of all administrative costs incurred by those agencies in connection with their duties under this section, Section 12207, Section 23687, and Section 69431.7 of the Education Code.

(C) Third, upon appropriation, to the California Educational Facilities Authority for outreach purposes to inform taxpayers about the College Access Tax Credit Fund and the credits allowed by this section, Section 12207, and Section 23687.

(D) Fourth, notwithstanding Section 13340 of the Government Code, the remaining revenue shall be continuously appropriated to the Student Aid Commission for purposes of awarding students pursuant to Article 16 (commencing with Section 69840) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code.

(2) The tax credit allowed by subdivision (a), subdivision (a) of Section 12207, and subdivision (a) of Section 23687 for donations to the College Access Tax Credit Fund shall be known as the College Access Tax Credit.

(e) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.