Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	DeLeon	Analyst:	Jahna Carlson	Bill Number:	SB 1356
Related Bills:	See Prior Analysis	Telephone:	845-5683	Amended Date:	May 29 & June 21, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Higher Education Investment Tax Credit Program

SUMMARY

This bill would establish an income tax credit for cash contributions made to a new special education fund with an aggregate credit cap of $100 million per calendar year.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 29, 2012, amendments reduced the maximum annual aggregate credit cap and modified the allocation formula applicable to the fund.

The June 21, 2012, amendments replaced the Treasurer with the California Educational Facilities Authority (CEFA) as the administering agency and made technical, nonsubstantive changes.

As a result of the May 29, and June 21, 2012, amendments, the "Technical Considerations" have been resolved and the "This Bill," and "Economic Impact" sections have been revised. The remainder of the department's analysis of the bill as amended May 1, 2012, still applies. The "Implementation Considerations," "Fiscal Impact," and "Policy Concerns" sections have been restated for convenience.

ANALYSIS

THIS BILL

For taxable years beginning on or after January 1, 2013, and before January 1, 2016, this bill would allow taxpayers, upon certification by the CEFA, to receive an income or franchise tax credit for a specified percentage of cash contributions made to the Higher Education Investment Tax Credit Program Special Fund (the fund). Unused credits could be carried forward to the subsequent six years. The maximum aggregate amount of credit that could be allocated and certified by the CEFA for any calendar year would be $100 million.

Board Position:			Legislative Director	Date
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The specified percentage used to calculate the credit would be:

- 60 percent of the amount contributed during the 2013 taxable year
- 55 percent of the amount contributed during the 2014 taxable year
- 50 percent of the amount contributed during the 2015 taxable year

The CEFA would be required to do all of the following:

- Allocate and certify the income and franchise tax credit to taxpayers during the period that begins on January 1, 2013, and ends on December 31, 2015.
- Establish a procedure for taxpayers to contribute to the fund and obtain certification for the credit.
- Notify the taxpayer within 7 days of receipt of a contribution, the contribution amount that is eligible for the credit and, to the extent that a credit would be limited or denied because the $100 million annual cap had been reached, offer to return the contribution amount that would be ineligible for the credit, or, in the case of a contribution made during the period January 1, 2013, through December 31, 2014, offer to provide a certification of a credit for the next taxable year.
- Provide to the Franchise Tax Board (FTB) a copy of each credit certificate issued by March 1 of the calendar year immediately following the year of issue.

The FTB would treat any disallowance of a credit as a math error.

The bill would preclude any deductions for amounts taken into account in the calculation of the credit.

The CEFA would be authorized to adopt regulations necessary to carry out certain aspects of these provisions. Any regulations adopted with respect to those aspects would be exempt from the Administrative Procedures Act.

The credit would be repealed by its own terms as of December 1, 2016.

Amounts contributed to the fund would be allocated first to the General Fund in an amount equal to the certified credits this bill would allow, then, upon appropriation by the Legislature, to:

- the FTB, the CEFA, the Controller, and the Student Aid Commission for reimbursement of administrative costs.
- the Student Aid Commission for the award of Cal Grants to eligible students.

This bill would become operative only if SB 1466 (De Leon, 2011/2012) is also enacted and takes effect on or before January 1, 2013.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

It is unclear what percentage would apply to a credit certified by the CEFA for the taxable year subsequent to the year of the donation: the percentage in effect for the year the donation is made or the year the certification applies to?

It is unclear how or whether the language disallowing a contribution deduction for amounts included in the determination of the credit would apply if a credit is certified for the taxable year subsequent to the year the donation is made.

It is unclear whether and to what extent a contribution deduction would be allowed to a taxpayer that, upon learning that their contribution exceeded the final year's allocation limit in whole or in part, rejected the CEFA's offer to return the excess amount. If it is the author's intent that a contribution deduction be allowed for any amounts that are ineligible for credit, this bill should be amended.

FISCAL IMPACT

Staff estimates one-time costs of approximately $67,000 in fiscal year 2012/2013 to develop, program, and test system changes in order to implement the credit that this bill would create. Additionally, staff estimates costs of approximately $3,000 in fiscal year 2013/2014 to develop and implement the process for receiving, and transcribing the information provided by CEFA to the department, with on-going annual costs of $50,000 to maintain and monitor the reported information for the remaining life of the credit.

These costs would normally be included in the department's existing annual change process and budgeted audit workloads. They are presented here to illustrate the administrative costs that could be subject to reimbursement under the terms of this bill.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 1356 as Amended June 21, 2012 Higher Education Investment Tax Credit Program For Taxable Years Beginning On or After January 1, 2013 Assumed Enactment After June 30, 2012 ($ in Millions)		
2012-13	2013-14	2014-15
-$45	-$90	-$95

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION[1]

Support: California Catholic Conference, California College Democrats
Community College League of California, University of California Students Association

Opposition: None identified

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

This bill would create a credit for certain charitable contributions that are currently deductible. As a result, because the credit's dollar-for-dollar reduction of tax is a more generous tax benefit than a deduction, there could be a redirection of existing, planned charitable giving to obtain the tax credit allowed under this bill.

LEGISLATIVE STAFF CONTACT

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[1] Senate Floor Analysis dated May 31, 2012.