

ANALYSIS OF AMENDED BILL

Author: De Leon Analyst: Diane Deatherage Bill Number: SB 798
 Related Bills: See Legislative History Telephone: 845-4783 Amended Date: January 6, 2014
 Attorney: Bruce Langston Sponsor: _____

SUBJECT: College Access Tax Credit

SUMMARY

This bill would establish an income tax credit under the Personal Income Tax Law and Corporation Income Tax Law for cash contributions made to the College Access Tax Credit Fund (College Fund) with an aggregate credit cap of \$500 million per calendar year.

RECOMMENDATION

No position.

Summary of Amendments

The January 6, 2014, amendments removed provisions of the bill related to infrastructure finance, and replaced them with the provisions discussed in this analysis. This is the department’s first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department’s programs and operations.

REASON FOR THE BILL

The reason for the bill is to help rebuild the state’s investment in education via a new tax credit for contributions to a special fund that would be used to provide additional Cal Grants to eligible students.

EFFECTIVE/OPERATIVE DATE

This bill would be effective upon enactment and specifically operative for taxable years beginning on or after January 1, 2014, and before January 1, 2017. The credit would be repealed by its own terms on December 1, 2017.

This bill would become operative only if SB 174¹ is enacted and takes effect on or before January 1, 2015.

¹ SB 174 amends the Education Code and does not impact the department’s programs and operations. The address to the California Legislative Information website, <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, has been provided for convenience.

Board Position:	Executive Officer	Date
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ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Currently, neither federal nor state law provides a credit for contributions to an educational special fund.

Federal and state law provides that a contribution made to a state government fund, like an educational special fund, is considered a charitable contribution.

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Itemized deductions may be limited for high-income taxpayers.

Current federal and state law allows a corporation and S-corporation to deduct charitable contributions limited to 10 percent of the taxpayer's net income. Contributions in excess of 10 percent may be carried over to the following five succeeding taxable years.

THIS BILL

This bill would create the College Fund as a special fund in the state treasury. Taxpayers, upon receipt of certification from the California Educational Facilities Authority (Authority), would be allowed a tax credit for a specified percentage of cash contributions made to the College 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 Authority for each calendar year would be \$500 million plus any previously unallocated and uncertified amounts.

The credit amount would be calculated as:

- 60 percent of the amount contributed that is certified and allocated for the 2014 taxable year.
- 55 percent of the amount contributed that is certified and allocated for the 2015 taxable year.
- 50 percent of the amount contributed that is certified and allocated for the 2016 taxable year.

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

- Allocate and certify the income or franchise tax credit to taxpayers during the period that begins on January 1, 2014, and ends on December 31, 2016.
- Establish a procedure for taxpayers to contribute to the College Fund and obtain certification for the credit.

- Certify the contribution amounts eligible for the credit within 45 days following receipt of the contribution.
- 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 bill would preclude any deductions for amounts included in the calculation of the credit.

Amounts contributed to the College Fund would first be allocated to reimburse the General Fund for the aggregate amount of the credit allowed. The allocated funds would be considered General Fund revenues for purposes of Sections 8 and 8.5 of Article XVI of the California Constitution. Then, upon appropriation by the Legislature, the funds would be allocated to the FTB, the Authority, the State Controller, and the Student Aid Commission to reimburse all administrative costs incurred in connection with this credit and to the Student Aid Commission for the purpose of awarding Cal Grants.

LEGISLATIVE HISTORY

SB 284 (De Leon, 2013/2014) was substantially similar to this bill. SB 284 was vetoed. The veto message stated that the reason for the veto was that the language of SB 284 inadvertently impacted the Proposition 98 funding guarantee negatively as donations to the fund were not specified to be general fund revenues.

SB 1356 (De Leon, 2011/2012) similar to this bill, would have created an income tax credit for cash contributions made to an education special fund with an aggregate credit cap of \$100 million per calendar year. SB 1356 was held in the Assembly Appropriations Committee.

AB 1262 (Haynes, 2005/2006) would have created a 75 percent credit for donations to a nonprofit organization that provides scholarships to elementary and secondary school students. AB 1262 was held in the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida has a corporate tax credit scholarship program known as Step Up for Students. The tax credit allows corporations to receive a dollar-for-dollar tax credit up to the amount of their state income tax liability, after application of other allowable credits, for donations made to a nonprofit scholarship funding organization. The credit is subject to an annual cap as specified. *Florida* does not have a personal income tax.

Illinois, Massachusetts, Michigan, Minnesota, and New York do not provide a credit comparable to the credit allowed by this bill.

FISCAL IMPACT

This bill would require changes to the tax forms and instruction booklets. As a result, this bill would impact the department’s printing, processing, and storage costs. It is expected that these costs would be absorbable.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 798* As Amended January 6, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$470	- \$310	- \$160

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

*The table above shows the impact on income and corporation tax collections. This bill would require funds to be transferred from the Fund to the General Fund so that the net impact of College Access Tax Credits on the General Fund would be zero.

SUPPORT/OPPOSITION²

Support: American Career College; American Federation of State, County and Municipal Employees (AFSCME); Association of Independent California Colleges and Universities (AICCU); Associated Students of UC Davis; California Catholic Conference; California Community College Association of Student Trustees; California Competes; California Faculty Association; California State Student Association (CSSA); California Student Aid Commission (CSAC); Campaign for College Opportunity; Community College League of California; Education Trust – West; Faculty Association of California Community Colleges (FACCC); Los Angeles Community College District (LACCD); Los Angeles Area Chamber of Commerce; NAACP California; NAACP Los Angeles; National Council of La Raza; Public Advocates; Southern California College Access Network; Student Senate for California Community Colleges (SSCCC); StudentsFirst; The Institute for College Access and Success (TICAS); West Coast University; University of California Student Association (UCSA); Young Invincibles.

Opposition: None provided.

² Senate Governance and Finance Committee analysis, dated January 9, 2014.

ARGUMENTS

Proponents: Supporters could argue that this credit could provide the needed funding for California's Cal Grant Program with a minimal net economic cost to the contributor.

Opponents: Some could argue that taxpayers may shift their giving from other charitable purposes to the state to take advantage of the credit and therefore the increased amounts of student aid come at the expense of other charitable giving.

POLICY CONCERNS

This bill could create differences between federal and California tax law if a taxpayer chooses to utilize this credit, instead of taking the charitable deduction for state purposes, 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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