

BILL ANALYSIS

Department, Board, Or Commission Franchise Tax Board	Author Committee on Budget and Fiscal Review	Bill Number SB 81
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SUBJECT

College Access Tax Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), make revisions to current law's College Access Tax Credit and create a new College Access Tax Credit.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

REASON FOR THE BILL

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

EFFECTIVE/OPERATIVE DATE

As a provision of a bill providing for appropriations related to the Budget Bill and identified as related to the budget in the Budget Bill, the provisions relating to the existing College Access Tax Credit that would allow the credit to reduce tax below tentative minimum tax would be effective immediately upon enactment, and specifically operative for taxable years beginning on or after January 1, 2014.

As a provision of a bill providing for appropriations related to the Budget Bill and identified as related to the budget in the Budget Bill, the new College Access Tax Credit would be effective immediately upon enactment, and specifically operative for taxable years beginning on or after January 1, 2017, and before January 1, 2018.

FEDERAL/STATE LAW

Federal law lacks a tax credit for contributions to an educational special fund.

Current state law allows a tax credit, referred to as the College Access Tax Credit, for a specified percentage of cash contributions made to the College Access Tax Credit Fund upon the receipt of certification from the California Educational Facilities Authority (Authority).

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Executive Officer
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Date
6/22/15

The amount of tax credit allowed is calculated as follows:

- 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 maximum aggregate amount of credit that can be allocated and certified by the Authority for each calendar year is \$500 million plus any previously unallocated and uncertified amounts. Allowed credits in excess of the tax liability may be carried forward to the subsequent six years.

No deduction is allowed for amounts included in the calculation of the credit.

The existing credit will be repealed by its own terms effective December 1, 2017.

THIS BILL

This bill would allow current law's College Access Tax Credit,¹ operative for taxable years beginning on or after January 1, 2014, and before January 1, 2017, to reduce tax below tentative minimum tax under the PITL and the CTL for taxable years beginning on or after January 1, 2014.

For taxable years beginning on or after January 1, 2017, and before January 1, 2018, this bill would create a new tax credit,² known as the College Access Tax Credit, in an amount equal to 50 percent of the amount contributed by the taxpayer to the College Access Tax Credit Fund, as allocated and certified by the Authority. 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 the credit would be \$500 million.

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

- Allocate and certify the income or franchise tax credit to taxpayers on a first-come-first-served basis.
- Establish a procedure for taxpayers to contribute to the College Access Tax Credit 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.

¹ Revenue and Taxation Code sections 17053.86 and 23686.

² Revenue and Taxation Code sections 17053.87 and 23687.

The bill would preclude any deductions for amounts included in the calculation of the credit.

This bill would create the College Access Tax Credit Fund as a special fund in the State Treasury. Amounts contributed to the College Access Tax Credit Fund would be allocated in the following order:

- 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.
- Upon appropriation by the Legislature, to reimburse the Department of Insurance, the FTB, the Authority, the State Controller, and the Student Aid Commission for all administrative costs incurred in connection with this credit.
- To the Student Aid Commission for the purpose of awarding Cal Grants to students.

This bill would allow the new College Access Tax Credit to reduce tax below tentative minimum tax under the PITL and the CTL.

This credit would be repealed by its own terms on December 1, 2018.

LEGISLATIVE HISTORY

SB 295 (De Leon, 2015/2016), would extend current law's College Access Tax Credit by one year and would increase the tax credit percentage by 5 percent for taxable years 2015 and 2016. SB 295 is pending before the Assembly Revenue and Taxation Committee.

AB 108 (Assembly Committee on Budget, 2015/2016), substantially similar to SB 81, would allow a new tax credit, known as the College Access Tax Credit for taxable years beginning on or after January 1, 2017, and before January 1, 2018. AB 108 would also allow the existing College Access Tax Credit and the new College Access Tax Credit to reduce tax below the tentative minimum tax for all years that the credit is available. AB 108 is pending before the Senate Budget and Fiscal Review Committee.

SB 798 (De Leon, Chapter 367, Statutes of 2014) created the College Access Tax Credit.

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.

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 this bill would allow.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 81* As Enrolled June 19, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
\$0	- \$64	- \$60

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

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

Revenue Discussion

Based on donation information from the University of California and California State University, there were \$1.9 billion in donations made to California colleges in 2011. The 2011 donations were grown using the Department of Finance Consumer Price Index plus Returns Growth Rate; for taxable year 2017 total donations are estimated to be \$2.3 billion.

An internal analysis of taxpayer behavior estimated that approximately 13 percent of current donations to higher education in California would be diverted to the new fund and that new donations in response to the credit would be approximately 16 percent of existing donations in 2017. This analysis suggested qualified donations under this proposal of approximately \$625 million in 2017. Because donations when the program first became available at the end of 2014 were below expectations, the estimated increase in 2017 donations under this bill was reduced by 50 percent, to \$135 million.

Taxpayers could claim the credit in lieu of the charitable contribution deduction. Adjustments were made to account for the offsetting tax effects of the proposed credit and charitable contribution deductions. The qualified donations would generate approximately \$117 million of credits for the 2017 taxable year.

Although this credit could be used to reduce tax below tentative minimum tax, not all of the generated credit would be used in the year generated. It is estimated that 85 percent would be used in the year generated and the remainder used over the subsequent two years.

The tax year estimates were converted to fiscal year estimates and rounded to arrive at the amounts reflected in the table above.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

VOTES

	Date	Yes	No
Concurrence	06/19/15	40	0
Assembly Floor	06/19/15	79	0
Senate Floor	03/23/15 ³	23	13

LEGISLATIVE STAFF CONTACT

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³ When the Senate Floor vote was taken on March 23, 2015, the bill only contained intent language.