

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY (“CEFA”)

College Access Tax Credit Allocation and Certification Regulations

Resolution No. 2014-02

October 30, 2014

Executive Summary

Overview

Senate Bill 798 (“SB 798” or the “bill”), codified under Revenue and Taxation Code sections 17053.86 and 23686, was signed into law by the Governor on September 16, 2014 and became effective immediately as an urgency statute. The bill authorizes a College Access Tax Credit (“tax credit”) for taxable years beginning on or after January 1, 2014, and before January 1, 2017, based on a percentage of the taxpayer's contribution to the College Access Tax Credit Fund (the “Fund”). CEFA is required to allocate and certify the tax credit, among other duties.

The maximum aggregate amount of tax credits that can be allocated and certified by CEFA each calendar year (2014, 2015, and 2016) is \$500 million in addition to the amount of any unallocated and uncertified tax credits in the previous calendar year. Applications for the tax credit will be processed on a first come, first served basis.

The tax credit is based on the following percentages:

- 60% of the amount contributed by the taxpayer to the Fund for the 2014 taxable year.
- 55% of the amount contributed by the taxpayer to the Fund for the 2015 taxable year.
- 50% of the amount contributed by the taxpayer to the Fund for the 2016 taxable year.

Subject to Appropriation: Cal Grant awards to be funded by contributions to the Fund, as well as reimbursement of administrative costs for CEFA and other state agencies (Franchise Tax Board, State Controller's Office, and the Student Aid Commission) from the Fund, are not authorized unless appropriated by the Legislature. No such appropriation has been made by the Legislature thus far.

CEFA's Responsibilities under SB 798

- Allocate and certify tax credits to taxpayers for taxable years 2014, 2015, and 2016.
- Establish a procedure for taxpayers to contribute to the Fund and obtain a certification for the tax credit. The contribution amount eligible for tax credit must be certified within a 45-day period.
- Provide to the Franchise Tax Board a copy of the certifications by March 1.
- Adopt necessary regulations. The Administrative Procedure Act under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to such regulations adopted by CEFA. The College Access Tax Credit Allocation and Certification Regulations, including Application, Notice of Allocation Reservation, Contribution Submittal Form, and College Access Tax Credit Certification, are attached to this Executive Summary.

Recommendation

Staff recommends approval of Resolution No. 2014-02 to adopt the College Access Tax Credit Allocation and Certification Regulations.

RESOLUTION NO. 2014-02

**RESOLUTION OF THE CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY
APPROVING THE ADOPTION OF THE COLLEGE ACCESS TAX CREDIT
ALLOCATION AND CERTIFICATION REGULATIONS**

WHEREAS, Senate Bill 798 (codified under Revenue and Taxation Code sections 17053.86 and 23686), which was signed into law by the Governor on September 16, 2014 and became effective immediately as an urgency statute, authorizes a College Access Tax Credit for taxable years beginning on or after January 1, 2014, and before January 1, 2017, based on a percentage of the taxpayer's contribution to the College Access Tax Credit Fund (the "Fund");

WHEREAS, pursuant to Revenue and Taxation Code sections 17053.86(b)(2) and 23686(b)(2), the Authority shall allocate and certify the College Access Tax Credit to taxpayers for taxable years 2014, 2015, and 2016, establish a procedure for taxpayers to contribute to the Fund and obtain a certification for the College Access Tax Credit, certify the contribution amount eligible for the College Access Tax Credit within a 45-day period, and provide to the Franchise Tax Board a copy of the certifications by March 1;

WHEREAS, the Authority must adopt regulations necessary to carry out the duties under Revenue and Taxation Code sections 17053.86(b)(2) and 23686(b)(2); and

WHEREAS, the Administrative Procedure Act under Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any regulation adopted by the Authority under Revenue and Taxation Code sections 17053.86(b)(2) and 23686(b)(2);

BE IT RESOLVED, by the California Educational Facilities Authority as follows:

Section 1. The College Access Tax Credit Allocation and Certification Regulations, including all forms incorporated by reference such as the Application, Notice of Allocation Reservation, Contribution Submittal Form, and College Access Tax Credit Certification, are hereby approved in substantially the form submitted by Authority staff.

Section 2. The Executive Director of the Authority is hereby authorized, for and on behalf of the Authority, to proceed and administer the College Access Tax Credit.

Section 3. The Executive Director of the Authority is hereby authorized and directed to take such actions, including making or causing to be made minor changes to the regulations as may be required, and to execute and deliver any and all documents that the Executive Director may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

Date Approved: _____