

2732--B

2011-2012 Regular Sessions

I N S E N A T E

January 31, 2011

Introduced by Sens. GOLDEN, GRISANTI, HANNON, HASSELL-THOMPSON, MARTINS, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to enacting the "education investment incentives act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "education investment incentives act".
3 S 2. Legislative findings and intent. The legislature hereby finds and
4 declares that:
5 a. At a time when the state is considering ways of reducing the tax
6 burden for New York state residents and educators are seeking an expansion of financial resources, charitable giving for educational purposes
7 should be stimulated;
8 b. Permitting public education entities such as school districts and
9 individual public schools, including charter schools, to accept and
10 receive voluntary cash contributions will lessen the need for additional
11 tax revenue;
12 c. Encouraging voluntary support for education, without prejudice for
13 or against any state-sanctioned educational enterprise, promotes the
14 state's interest in providing the highest quality education to all children in the state;
15 d. Requiring a sharing of resources among school districts will insure
16 a more equitable distribution of financial support;
17
18

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD05643-09-2

e. The tax credit provided in this act is merely one of many credits available to New York taxpayers;

f. The intended beneficiaries of the tax credit provided in this act are the students who attend public schools, including charter schools, or who further their educations using tuition scholarships from educational scholarship organizations, or who participate in home-based educational programs; therefore the tax credit does not constitute public aid to non-public sectarian institutions;

g. Permitting school personnel to claim a credit for the purchase of classroom instructional materials and supplies will insure a wider availability of such materials and supplies for all students.

S 3. Section 606 of the tax law is amended by adding six new subsections (u), (v), (w), (w-1), (w-2) and (w-3) to read as follows:

(U) DEFINITIONS. AS USED IN SUBSECTIONS (V), (W), (W-1), (W-2) AND (W-3) OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "PUBLIC EDUCATION ENTITY" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT OR ANY INDIVIDUAL PUBLIC SCHOOL, INCLUDING ANY CHARTER SCHOOL; A NONPROFIT ORGANIZATION FOR THE PURPOSE OF PROVIDING PROGRAMMING FOR PERFORMING ARTS, VISUAL ARTS, CIVIC INSTRUCTION, PRE-KINDERGARTEN INSTRUCTION, OR ANY OTHER EDUCATIONAL PURPOSE WITHIN SUCH SCHOOLS; A NONPROFIT ORGANIZATION THAT ALLOWS DONORS TO CHOOSE SCHOOL PROJECTS FOR CHARITABLE SUPPORT THAT ARE IDENTIFIED BY TEACHERS OR OTHER SCHOOL PERSONNEL; AND THE UNIVERSITY OF THE STATE OF NEW YORK RESEARCH FUND.

(2) "LOCAL EDUCATION FUND" SHALL MEAN A CHARITABLE ORGANIZATION IN THIS STATE THAT:

(A) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501 (C)(3) OF THE INTERNAL REVENUE CODE; AND

(B) IS ESTABLISHED FOR THE EXPLICIT PURPOSE OF SUPPORTING PUBLIC EDUCATION WITHIN A SPECIFIC PUBLIC SCHOOL DISTRICT.

(3) "EDUCATIONAL SCHOLARSHIP ORGANIZATION" SHALL MEAN A CHARITABLE ORGANIZATION IN THIS STATE THAT:

(A) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501 (C)(3) OF THE INTERNAL REVENUE CODE;

(B) ALLOCATES AT LEAST NINETY PERCENT OF DONATIONS FOR WHICH TAX CREDITS ARE CLAIMED UNDER SUBSECTION (W-3) OF THIS SECTION FOR EDUCATIONAL SCHOLARSHIPS;

(C) MAKES EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS AVAILABLE TO CHILDREN FROM MORE THAN ONE PUBLIC OR ELIGIBLE NON-PUBLIC SCHOOL; AND

(D) REPORTS ANNUALLY TO THE DEPARTMENT THE GROSS RECEIPTS AND GROSS AMOUNT EXPENDED FOR SCHOLARSHIPS AND TUITION GRANTS.

(4) "ELIGIBLE NON-PUBLIC SCHOOL" SHALL MEAN AN INDEPENDENT SECTARIAN OR NON-SECTARIAN PRIMARY OR SECONDARY SCHOOL OR PRE-KINDERGARTEN PROGRAM THAT IS LOCATED IN THIS STATE, THAT SATISFIES THE REQUIREMENTS PRESCRIBED BY APPLICABLE LAW FOR SUCH SCHOOLS IN THIS STATE, AND THAT HAS QUALIFIED FOR FEDERAL TAX EXEMPTION UNDER SECTION 501 (C)(3) OF THE INTERNAL REVENUE CODE.

(5) "AUTHORIZED CERTIFICATE OF RECEIPT" SHALL MEAN A CERTIFICATE DESIGNED BY THE COMMISSIONER FOR THE PURPOSE OF ACKNOWLEDGING RECEIPT OF A CHARITABLE CONTRIBUTION BY THE CHIEF EXECUTIVE OFFICER OF AN EDUCATIONAL SCHOLARSHIP ORGANIZATION.

(6) "ELIGIBLE PUPIL" SHALL MEAN A PUPIL WHO IS A RESIDENT OF THE STATE OF NEW YORK AND OF AGE TO ATTEND SCHOOL IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW OR WHO IS FOUR YEARS OF AGE ON OR BEFORE DECEMBER FIRST OF THE YEAR IN WHICH THEY ARE ENROLLED IN A PRE-KINDERGARTEN PROGRAM.

(V) CONTRIBUTIONS TO PUBLIC EDUCATION CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A CREDIT IS ALLOWED FOR VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A PUBLIC EDUCATION ENTITY. ACCEPTANCE AND RECEIPT OF ALL SUCH CONTRIBUTIONS SHALL BE PERMITTED. A TAXPAYER WHO SUBMITS WITH HIS OR HER TAX RETURN AN AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(1) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE IN THE TAXABLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY THE TAXPAYER.

A SHAREHOLDER OF A NEW YORK S CORPORATION OR A PARTNER OF A PARTNERSHIP (OR OTHER ENTITY TREATED AS A PARTNERSHIP FOR INCOME TAX PURPOSES) SHALL BE TREATED AS THE TAXPAYER WITH RESPECT TO HIS OR HER PRO-RATA SHARE OF THE TAX CREDIT ALLOWABLE TO SUCH S CORPORATION OR PARTNERSHIP, DETERMINED FOR THE S CORPORATION'S OR PARTNERSHIP'S TAXABLE YEAR ENDING WITH OR WITHIN THE SHAREHOLDER'S OR PARTNER'S TAXABLE YEAR. THE MAXIMUM AMOUNT OF THE CREDIT FOR SUCH S CORPORATION OR PARTNERSHIP SHALL BE THE SAME AS THAT ALLOWABLE TO CORPORATIONS UNDER SUBDIVISIONS FORTY-SIX, FORTY-SEVEN AND FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

(2) A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

(3) IF THE ALLOWABLE TAX CREDIT EXCEEDS SEVENTY-FIVE PERCENT OF THE TAXES OTHERWISE DUE UNDER THIS ARTICLE ON THE TAXPAYER'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS ARTICLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CREDIT NOT USED TO OFFSET THE TAXES UNDER THIS ARTICLE FORWARD FOR NOT MORE THAN FIVE YEARS' INCOME TAX LIABILITY.

(4) CONTRIBUTIONS IN ANY TAXABLE YEAR THAT RECEIVE A CREDIT PURSUANT TO THIS SUBSECTION SHALL NOT BE CONSIDERED ELIGIBLE DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS. CONTRIBUTIONS IN EXCESS OF SEVENTY-FIVE PERCENT OF A TAXPAYER'S TAX LIABILITY IN ANY TAXABLE YEAR THAT DO NOT RECEIVE A TAX CREDIT SHALL BE CONSIDERED ELIGIBLE DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS.

(5) SUCH CONTRIBUTIONS SHALL BE DEPOSITED IN A SEPARATE ACCOUNT.

(6) IF MADE TO A PUBLIC SCHOOL DISTRICT SUCH CONTRIBUTIONS SHALL BE SUPERVISED BY A PERSON SO DESIGNATED BY THE CHANCELLOR OR SUPERINTENDENT. IF MADE TO A PARTICULAR SCHOOL THEY SHALL BE SUPERVISED BY THE SCHOOL PRINCIPAL. REPORTS OF DEPOSITS AND DISBURSEMENTS SHALL BE MADE TO THE LOCAL BOARD OF EDUCATION ANNUALLY. CHARTER SCHOOLS SHALL MAKE SUCH REPORTS TO THE RESPECTIVE CHARTER SCHOOL BOARD OF TRUSTEES, AS APPLICABLE.

(W) CONTRIBUTIONS TO LOCAL EDUCATION FUND CREDIT. IN LIEU OF CONTRIBUTIONS IN SUBSECTION (V) OF THIS SECTION, A CREDIT IS ALLOWED FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A LOCAL EDUCATION FUND. A TAXPAYER WHO SUBMITS WITH HIS OR HER TAX RETURN AN AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(1) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE

1 IN THE TAXABLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY
2 THE TAXPAYER. A SHAREHOLDER OF A NEW YORK S CORPORATION OR A PARTNER OF
3 A PARTNERSHIP (OR OTHER ENTITY TREATED AS A PARTNERSHIP FOR INCOME TAX
4 PURPOSES) SHALL BE TREATED AS THE TAXPAYER WITH RESPECT TO HIS OR HER
5 PRO-RATA SHARE OF THE TAX CREDIT ALLOWABLE TO SUCH S CORPORATION OR
6 PARTNERSHIP, DETERMINED FOR THE S CORPORATION'S OR PARTNERSHIP'S TAXABLE
7 YEAR ENDING WITH OR WITHIN THE SHAREHOLDER'S OR PARTNER'S TAXABLE YEAR.
8 THE MAXIMUM AMOUNT OF THE CREDIT FOR SUCH S CORPORATION OR PARTNERSHIP
9 SHALL BE THE SAME AS THAT ALLOWABLE TO CORPORATIONS UNDER SUBDIVISIONS
10 FORTY-SIX, FORTY-SEVEN AND FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF
11 THIS CHAPTER.

12 (2) A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN
13 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF
14 OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

15 (3) IF THE ALLOWABLE TAX CREDIT EXCEEDS SEVENTY-FIVE PERCENT OF THE
16 TAXES OTHERWISE DUE UNDER THIS ARTICLE ON THE TAXPAYER'S INCOME, OR IF
17 THERE ARE TAXES DUE UNDER THIS ARTICLE, THE TAXPAYER MAY CARRY THE
18 AMOUNT OF THE CREDIT NOT USED TO OFFSET THE TAXES UNDER THIS ARTICLE
19 FORWARD FOR NOT MORE THAN FIVE YEARS' INCOME TAX LIABILITY.

20 (4) CONTRIBUTIONS IN ANY TAXABLE YEAR THAT RECEIVE A CREDIT PURSUANT
21 TO THIS SUBSECTION SHALL BE CONSIDERED ELIGIBLE DEDUCTIONS AS ALLOWED
22 UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS. CONTRIBUTIONS IN EXCESS
23 OF SEVENTY-FIVE PERCENT OF A TAXPAYERS' TAX LIABILITY IN ANY TAXABLE
24 YEAR THAT DO NOT RECEIVE A TAX CREDIT SHALL BE CONSIDERED ELIGIBLE
25 DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS.

26 (5) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO A LOCAL
27 EDUCATION FUND FOR THE BENEFIT OF A DESIGNATED STUDENT.

28 (W-1) HOME-BASED INSTRUCTIONAL MATERIALS CREDIT. IN LIEU OF CONTRIB-
29 UTIONS IN SUBSECTIONS (V) AND (W) OF THIS SECTION, A CREDIT IS ALLOWED
30 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
31 THIRTEEN FOR THE PURCHASE OF INSTRUCTIONAL MATERIALS FOR NON-PUBLIC
32 HOME-BASED EDUCATIONAL PROGRAMS. THIS CREDIT SHALL BE VALUED AT ONE
33 HUNDRED PERCENT OF SUCH PURCHASES.

34 (1) THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED SEVENTY-FIVE DOLLARS IN
35 ANY TAXABLE YEAR.

36 (2) A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN
37 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF
38 OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

39 (3) IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
40 THIS ARTICLE ON THE TAXPAYER'S INCOME, OR IF THERE ARE NO TAXES DUE
41 UNDER THIS ARTICLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CREDIT NOT
42 USED TO OFFSET THE TAXES UNDER THIS ARTICLE FORWARD FOR NOT MORE THAN
43 FIVE YEARS' INCOME TAX LIABILITY.

44 (4) IF THE TAXPAYER SHALL BE RESPONSIBLE FOR NOTIFYING THE COMMISSION-
45 ER OF THE INTENTION TO CLAIM THE ALLOWABLE CREDIT, NO LATER THAN DECEM-
46 BER THIRTY-FIRST.

47 (W-2) CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. FOR TAXA-
48 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A
49 CREDIT IS ALLOWED FOR THE PERSONNEL EMPLOYED IN ANY PUBLIC SCHOOL,
50 INCLUDING ANY CHARTER SCHOOL, OR IN ANY ELIGIBLE NON-PUBLIC SCHOOL FOR
51 THE PURCHASE OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES.

52 (1) THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED SEVENTY-FIVE DOLLARS IN
53 ANY TAXABLE YEAR.

54 (2) THE TAXPAYER SHALL BE RESPONSIBLE FOR NOTIFYING THE COMMISSIONER
55 OF THE INTENTION TO CLAIM THE ALLOWABLE CREDIT, NO LATER THAN DECEMBER
56 THIRTY-FIRST, INDICATING WHETHER THE PURCHASE WAS MADE FOR USE IN A

1 PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR AN ELIGIBLE NON-PUBLIC
2 SCHOOL.

3 (W-3) CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT.
4 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
5 THIRTEEN, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIB-
6 UTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO AN EDUCATIONAL
7 SCHOLARSHIP ORGANIZATION. A TAXPAYER WHO SUBMITS WITH HIS OR HER TAX
8 RETURN AN AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT,
9 TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS
10 ARTICLE.

11 (1) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT
12 OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED
13 SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE
14 IN THE TAXABLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY
15 THE TAXPAYER. A SHAREHOLDER OF A NEW YORK S CORPORATION OR A PARTNER OF
16 A PARTNERSHIP (OR OTHER ENTITY TREATED AS A PARTNERSHIP FOR INCOME TAX
17 PURPOSES) SHALL BE TREATED AS THE TAXPAYER WITH RESPECT TO HIS OR HER
18 PRO-RATA SHARE OF THE TAX CREDIT ALLOWABLE TO SUCH S CORPORATION OR
19 PARTNERSHIP, DETERMINED FOR THE S CORPORATION'S OR PARTNERSHIP'S TAXABLE
20 YEAR ENDING WITH OR WITHIN THE SHAREHOLDER'S OR PARTNER'S TAXABLE YEAR.
21 THE MAXIMUM AMOUNT OF THE CREDIT FOR SUCH S CORPORATION OR PARTNERSHIP
22 SHALL BE THE SAME AS THAT ALLOWABLE TO CORPORATIONS UNDER SUBDIVISIONS
23 FORTY-SIX, FORTY-SEVEN AND FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF
24 THIS CHAPTER.

25 (2) A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN
26 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF
27 OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

28 (3) IF THE ALLOWABLE TAX CREDIT EXCEEDS SEVENTY-FIVE PERCENT OF THE
29 TAXES OTHERWISE DUE UNDER THIS ARTICLE ON THE TAXPAYER'S INCOME, OR IF
30 THERE ARE NO TAXES DUE UNDER THIS ARTICLE, THE TAXPAYER MAY CARRY THE
31 AMOUNT OF CREDIT NOT USED TO OFFSET THE TAXES UNDER THIS ARTICLE FORWARD
32 FOR NOT MORE THAN FIVE YEARS' INCOME TAX LIABILITY.

33 (4) CONTRIBUTIONS IN ANY TAXABLE YEAR THAT RECEIVE A CREDIT PURSUANT
34 TO THIS SUBSECTION SHALL NOT BE CONSIDERED ELIGIBLE DEDUCTIONS AS
35 ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS. CONTRIBUTIONS
36 IN EXCESS OF SEVENTY-FIVE PERCENT OF A TAXPAYERS' TAX LIABILITY IN ANY
37 TAXABLE YEAR THAT DO NOT RECEIVE A TAX CREDIT SHALL BE CONSIDERED ELIGI-
38 BLE DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIB-
39 UTIONS.

40 (5) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO AN
41 EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR THE BENEFIT OF A DESIGNATED
42 PUPIL.

43 (6) SCHOLARSHIP AMOUNT.

44 (A) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY AWARD A SCHOLARSHIP TO A
45 NON-DISTRICT RESIDENT ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL OPERATED
46 BY A SCHOOL DISTRICT IN AN AMOUNT NOT TO EXCEED THE TUITION CHARGED BY
47 THE PARTICIPATING PUBLIC SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION
48 FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, PROVIDED,
49 HOWEVER THAT A SCHOLARSHIP SHALL NOT BE AVAILABLE IN ANY CASE WHERE THE
50 RESIDENT DISTRICT OF SUCH PUPIL IS LIABLE FOR SUCH TUITION.

51 (B) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY AWARD AN ELIGIBLE SCHOL-
52 ARSHIP TO A PUPIL ENROLLED IN A PUBLIC SCHOOL, INCLUDING A CHARTER
53 SCHOOL, OR A NON-PUBLIC SCHOOL IN AN AMOUNT NOT TO EXCEED THE TUITION
54 AMOUNT OF THE ELIGIBLE NON-PUBLIC SCHOOL, PROVIDED, HOWEVER, THAT THE
55 TOTAL AMOUNT OF SUCH TAX CREDITS SHALL NOT EXCEED THE AMOUNT OF AVAIL-
56 ABLE TAX CREDITS FOR EDUCATIONAL SCHOLARSHIP ORGANIZATIONS SET FORTH IN

1 PARAGRAPH SIX OF SUBDIVISION TWENTY-NINTH OF SECTION ONE HUNDRED SEVEN-
2 TY-ONE OF THIS CHAPTER.

3 S 4. Section 210 of the tax law is amended by adding four new subdivi-
4 sions 45, 46, 47 and 48 to read as follows:

5 45. DEFINITIONS. AS USED IN SUBDIVISIONS FORTY-SIX, FORTY-SEVEN AND
6 FORTY-EIGHT OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
7 MEANINGS:

8 (A) "PUBLIC EDUCATION ENTITY" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT OR
9 ANY INDIVIDUAL PUBLIC SCHOOL, INCLUDING ANY CHARTER SCHOOL; A NONPROFIT
10 ORGANIZATION FOR THE PURPOSE OF PROVIDING PROGRAMMING FOR PERFORMING
11 ARTS, VISUAL ARTS, CIVIC INSTRUCTION, PRE-KINDERGARTEN INSTRUCTION, OR
12 ANY OTHER EDUCATIONAL PURPOSE WITHIN SUCH SCHOOLS; A NONPROFIT ORGANIZA-
13 TION THAT ALLOWS DONORS TO CHOOSE SCHOOL PROJECTS FOR CHARITABLE SUPPORT
14 THAT ARE IDENTIFIED BY TEACHERS OR OTHER SCHOOL PERSONNEL; AND THE
15 UNIVERSITY OF THE STATE OF NEW YORK RESEARCH FUND.

16 (B) "LOCAL EDUCATION FUND" SHALL MEAN A CHARITABLE ORGANIZATION IN
17 THIS STATE THAT:

18 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C) (3) OF THE
19 INTERNAL REVENUE CODE; AND

20 (2) IS ESTABLISHED FOR THE EXPLICIT PURPOSE OF SUPPORTING PUBLIC
21 EDUCATION WITHIN A SPECIFIC PUBLIC SCHOOL DISTRICT.

22 (C) "EDUCATIONAL SCHOLARSHIP ORGANIZATION" SHALL MEAN A CHARITABLE
23 ORGANIZATION IN THIS STATE THAT:

24 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)(3) OF THE
25 INTERNAL REVENUE CODE;

26 (2) ALLOCATES AT LEAST NINETY PERCENT OF DONATIONS FOR WHICH CREDITS
27 ARE CLAIMED UNDER SUBDIVISION FORTY-EIGHT OF THIS SECTION FOR EDUCA-
28 TIONAL SCHOLARSHIPS;

29 (3) MAKES EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS AVAILABLE TO
30 CHILDREN FROM MORE THAN ONE PUBLIC OR ELIGIBLE NON-PUBLIC SCHOOL; AND

31 (4) REPORTS ANNUALLY TO THE DEPARTMENT THE GROSS RECEIPTS AND GROSS
32 AMOUNT EXPENDED FOR SCHOLARSHIPS AND TUITION GRANTS.

33 (D) "ELIGIBLE NON-PUBLIC SCHOOL" SHALL MEAN AN INDEPENDENT SECTARIAN
34 OR NON-SECTARIAN PRIMARY OR SECONDARY SCHOOL OR PRE-KINDERGARTEN PROGRAM
35 THAT IS LOCATED IN THIS STATE, THAT SATISFIES THE REQUIREMENTS
36 PRESCRIBED BY APPLICABLE LAW FOR SUCH SCHOOLS IN THIS STATE, AND THAT
37 HAS QUALIFIED FOR FEDERAL TAX EXEMPTION UNDER SECTION 501(C)(3) OF THE
38 INTERNAL REVENUE CODE.

39 (E) "AUTHORIZED CERTIFICATE OF RECEIPT" SHALL MEAN A CERTIFICATE
40 DESIGNED BY THE COMMISSIONER FOR THE PURPOSE OF ACKNOWLEDGING RECEIPT OF
41 A CHARITABLE CONTRIBUTION BY THE CHIEF EXECUTIVE OFFICER OF A PUBLIC
42 EDUCATION ENTITY, OR OF A LOCAL EDUCATION FUND OR OF AN EDUCATIONAL
43 SCHOLARSHIP ORGANIZATION.

44 (F) "ELIGIBLE PUPIL" SHALL MEAN A PUPIL WHO IS A RESIDENT OF THE STATE
45 OF NEW YORK AND OF AGE TO ATTEND SCHOOL IN ACCORDANCE WITH SUBDIVISION
46 ONE OF SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW OR WHO IS
47 FOUR YEARS OF AGE ON OR BEFORE DECEMBER FIRST OF THE YEAR IN WHICH THEY
48 ARE ENROLLED IN A PRE-KINDERGARTEN PROGRAM.

49 46. CONTRIBUTIONS TO PUBLIC EDUCATION CREDIT. (A) FOR TAXABLE YEARS
50 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A CREDIT IS
51 ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE
52 TAXPAYER DURING THE TAXABLE YEAR TO A PUBLIC EDUCATION ENTITY. ACCEPT-
53 ANCE AND RECEIPT OF ALL SUCH CONTRIBUTIONS SHALL BE PERMITTED. A TAXPAY-
54 ER WHO SUBMITS WITH HIS OR HER TAX RETURN AN AUTHORIZED CERTIFICATE OF
55 RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
56 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF SUCH

1 CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT OF THE AMOUNT OF SUCH
2 CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED SEVENTY-FIVE PERCENT OF
3 THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE IN THE TAXABLE YEAR,
4 AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY THE TAXPAYER.

5 (B) SUCH CONTRIBUTIONS SHALL BE DEPOSITED IN A SEPARATE ACCOUNT.

6 (C) IF MADE TO A PUBLIC SCHOOL DISTRICT SUCH CONTRIBUTIONS SHALL BE
7 SUPERVISED BY A PERSON SO DESIGNATED BY THE CHANCELLOR OR SUPERINTEN-
8 DENT. IF MADE TO A PARTICULAR SCHOOL THEY SHALL BE SUPERVISED BY THE
9 SCHOOL PRINCIPAL. REPORTS OF DEPOSITS AND DISBURSEMENTS SHALL BE MADE TO
10 THE LOCAL BOARD OF EDUCATION ANNUALLY. CHARTER SCHOOLS SHALL MAKE SUCH
11 REPORTS TO THE RESPECTIVE CHARTER SCHOOL BOARD OF TRUSTEES.

12 47. CONTRIBUTIONS TO LOCAL EDUCATION FUND CREDIT. (A) FOR TAXABLE
13 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A
14 CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY
15 THE TAXPAYER DURING THE TAXABLE YEAR TO A LOCAL EDUCATION FUND. A
16 TAXPAYER WHO SUBMITS WITH HIS OR HER TAX RETURN AN AUTHORIZED CERTIF-
17 ICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFT-
18 ER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

19 (B) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT
20 OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED
21 SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE
22 IN THE TAXABLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY
23 THE TAXPAYER.

24 (C) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO A LOCAL
25 EDUCATION FUND FOR THE BENEFIT OF A DESIGNATED STUDENT.

26 48. CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT. A
27 CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY
28 THE TAXPAYER DURING THE TAXABLE YEAR TO AN EDUCATIONAL SCHOLARSHIP
29 ORGANIZATION. A TAXPAYER WHO SUBMITS WITH HIS OR HER TAX RETURN AN
30 AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE
31 COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTI-
32 CLE.

33 (A) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT
34 OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED SEVENTY-FIVE
35 PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE IN THE TAXA-
36 BLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY THE
37 TAXPAYER.

38 (B) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO AN
39 EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR THE BENEFIT OF A DESIGNATED
40 PUPIL.

41 (C) SCHOLARSHIP AMOUNT. (1) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY
42 AWARD A SCHOLARSHIP TO A NON-DISTRICT RESIDENT ELIGIBLE PUPIL ATTENDING
43 A PUBLIC SCHOOL OPERATED BY A SCHOOL DISTRICT IN AN AMOUNT NOT TO EXCEED
44 THE TUITION CHARGED BY THE PARTICIPATING PUBLIC SCHOOL PURSUANT TO PARA-
45 GRAPH D OF SUBDIVISION FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF THE
46 EDUCATION LAW; PROVIDED, HOWEVER THAT A SCHOLARSHIP SHALL NOT BE AVAIL-
47 ABLE IN ANY CASE WHERE THE RESIDENT DISTRICT OF SUCH PUPIL IS LIABLE FOR
48 SUCH TUITION.

49 (2) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY AWARD A SCHOLARSHIP TO A
50 PUPIL ENROLLED IN A PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR AN
51 ELIGIBLE NON-PUBLIC SCHOOL IN AN AMOUNT NOT TO EXCEED THE TUITION AMOUNT
52 OF THE ELIGIBLE NON-PUBLIC SCHOOL, PROVIDED, HOWEVER, THAT THE TOTAL
53 AMOUNT OF SUCH TAX CREDITS SHALL NOT EXCEED THE AMOUNT OF AVAILABLE TAX
54 CREDITS FOR EDUCATIONAL SCHOLARSHIP ORGANIZATIONS SET FORTH IN PARAGRAPH
55 SIX OF SUBDIVISION TWENTY-NINTH OF SECTION ONE HUNDRED SEVENTY-ONE OF
56 THIS CHAPTER.

1 S 5. Section 171 of the tax law is amended by adding a new subdivision
2 twenty-ninth to read as follows:

3 TWENTY-NINTH. FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF
4 SUBSECTIONS (U), (V), (W), (W-1), (W-2) AND (W-3) OF SECTION SIX HUNDRED
5 SIX AND SUBDIVISIONS FORTY-FIVE, FORTY-SIX, FORTY-SEVEN AND FORTY-EIGHT
6 OF SECTION TWO HUNDRED TEN OF THIS CHAPTER THE COMMISSIONER SHALL:

7 (1) MAINTAIN A LIST OF PUBLIC SCHOOL DISTRICTS, INDIVIDUAL PUBLIC
8 SCHOOLS, INCLUDING CHARTER SCHOOLS, LOCAL EDUCATION FUNDS, AND EDUCA-
9 TIONAL SCHOLARSHIP ORGANIZATIONS; AND

10 (2) APPROVE TAX CREDITS ON A FIRST-COME, FIRST-SERVE BASIS FROM EACH
11 TAXPAYER WHO SUBMITS TO THE DEPARTMENT AN APPLICATION PREPARED BY THE
12 COMMISSIONER WHEREIN THE TAXPAYER SHALL SPECIFY EACH TAX FOR WHICH THE
13 TAXPAYER REQUESTS A CREDIT AND THE APPLICABLE TAXABLE YEAR FOR A CREDIT,
14 SUBJECT TO THE LIMITS SET FORTH IN PARAGRAPH SIX OF THIS SUBDIVISION;
15 AND

16 (3) UPON NOTIFICATION BY THE CHIEF EXECUTIVE OFFICER OF ANY EDUCATION
17 ENTITY SO LISTED THAT A CONTRIBUTION HAS BEEN RECEIVED, SUCH NOTIFICA-
18 TION BEING WITHIN ONE BUSINESS DAY OF SAID RECEIPT, RECORD THE AMOUNT
19 AND DATE OF THE CONTRIBUTION, THE NAME AND ADDRESS OF THE CONTRIBUTOR;
20 AND

21 (4) UPON NOTIFICATION THAT A CREDIT FOR THE PURCHASE OF INSTRUCTIONAL
22 MATERIALS FOR NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAMS, RECORD THE
23 AMOUNT AND DATE OF THE NOTIFICATION, THE NAME AND ADDRESS OF THE CLAIM-
24 ANT; AND

25 (5) UPON NOTIFICATION THAT A CREDIT FOR THE PURCHASE OF THE CLASSROOM
26 INSTRUCTIONAL MATERIALS AND SUPPLIES FOR USE IN A PUBLIC SCHOOL, INCLUD-
27 ING A CHARTER SCHOOL, OR AN ELIGIBLE NON-PUBLIC SCHOOL, RECORD THE
28 AMOUNT AND DATE OF THE NOTIFICATION AND THE NAME AND ADDRESS OF THE
29 CLAIMANT; AND

30 (6) MAKE NO MORE THAN TWO HUNDRED FIFTY MILLION DOLLARS IN CREDITS
31 AVAILABLE IN ANY SINGLE TAX YEAR, PROVIDED THAT FIFTY PERCENT OF SUCH
32 CREDITS SHALL BE AFFORDED TO TAXPAYERS WHO MAKE DONATIONS TO PUBLIC
33 EDUCATION ENTITIES AND LOCAL EDUCATION FUNDS, AND FOR THE PURCHASE BY
34 SCHOOL PERSONNEL, OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES, AND
35 THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO EDUCATION SCHOL-
36 ARSHIP ORGANIZATIONS AND FOR HOME-BASED INSTRUCTIONAL MATERIALS,
37 PROVIDED FURTHER, THAT BEGINNING IN TAX YEAR TWO THOUSAND FOURTEEN AND
38 ANNUALLY THEREAFTER, MAKE NO MORE THAN THREE HUNDRED MILLION DOLLARS IN
39 CREDITS AVAILABLE IN ANY SINGLE TAX YEAR, PROVIDED THAT FIFTY PERCENT OF
40 SUCH CREDITS SHALL BE AFFORDED TO TAXPAYERS WHO MAKE DONATIONS TO PUBLIC
41 EDUCATION ENTITIES AND LOCAL EDUCATION FUNDS, AND FOR THE PURCHASE BY
42 SCHOOL PERSONNEL OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES, AND
43 THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO EDUCATIONAL
44 SCHOLARSHIP ORGANIZATIONS AND FOR HOME-BASED INSTRUCTIONAL MATERIALS;
45 AND

46 (7) ISSUE TO TAXPAYERS ALL AUTHORIZED CERTIFICATES OF RECEIPT FOR ALL
47 ELIGIBLE CREDITS NO LATER THAN JANUARY THIRTY-FIRST FOR CREDITS CLAIMED
48 FOR THE PREVIOUS CALENDAR YEAR; AND

49 (8) DISALLOW THE PORTION OF THE CREDIT EQUAL TO THE AMOUNT SAVED FROM
50 THE FEDERAL TAX LIABILITY OF THE TAXPAYER FROM THE CHARITABLE CONTRIB-
51 UTION TO A QUALIFIED ORGANIZATION UNDER SECTION FIVE HUNDRED ONE (C)(3)
52 OF THE INTERNAL REVENUE CODE OF THE UNITED STATES.

53 S 6. Excess contributions. Contributions exceeding the allowed annual
54 maximum of the amount set forth in subdivision 29th of section 171 of
55 the tax law to public educational entities, local educational funds and
56 for the purchase of classroom instructional materials and supplies for

1 use in a public school, including a charter school, or an eligible non-
2 public school; or the allowed annual maximum of the amount set forth in
3 subdivision 29th of section 171 of the tax law to education scholarship
4 organizations and for the purchase of home-based instructional materi-
5 als, shall be applied to the following tax year, and the donor so noti-
6 fied within one business day.

7 S 7. The department of taxation and finance shall prepare a written
8 report before January 31 of each calendar year, which shall contain
9 statistical information regarding the credits allowed pursuant to
10 subsections (u), (v), (w), (w-1), (w-2) and (w-3) of section 606 and
11 subdivisions 45, 46, 47 and 48 of section 210 of the tax law as added by
12 sections three and four of this act, for the previous calendar year.
13 Copies of such report shall be submitted to the governor, the temporary
14 president of the senate, the speaker of the assembly, the chair of the
15 senate finance committee and the chair of the assembly ways and means
16 committee. Such reports shall contain, but need not be limited to, the
17 number of credits by type and the amount of such credits allowed to
18 taxpayers.

19 S 8. This act shall not be construed to authorize the commissioner of
20 education or the commissioner of taxation and finance to impose any
21 regulation or requirement on the educational program, instruction or
22 activities of an eligible non-public school that receives funding on
23 behalf of an eligible pupil from an educational scholarship organization
24 pursuant to this act, unless specifically authorized by this act.

25 S 9. This act shall take effect immediately.