

4099

2013-2014 Regular Sessions

I N S E N A T E

March 8, 2013

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 e. The tax credit provided in this act is merely one of many credits
18 available to New York taxpayers;
19 f. The intended beneficiaries of the tax credit provided in this act
20 are the students who attend public schools, including charter schools,
21 or who further their educations using tuition scholarships from educational scholarship organizations, or who participate in home-based
22 educational scholarship organizations, or who participate in home-based
23 educational scholarship organizations, or who participate in home-based
24 educational scholarship organizations, or who participate in home-based

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

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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 AT LEAST ONE PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR 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 FOURTEEN, 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 RECEIVES AN

1 AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE
2 COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTI-
3 CLE.

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

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

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

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

26 (4) CONTRIBUTIONS IN ANY TAXABLE YEAR THAT RECEIVE A CREDIT PURSUANT
27 TO THIS SUBSECTION SHALL NOT BE CONSIDERED ELIGIBLE DEDUCTIONS AS
28 ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS. CONTRIBUTIONS
29 IN EXCESS OF SEVENTY-FIVE PERCENT OF A TAXPAYER'S TAX LIABILITY IN ANY
30 TAXABLE YEAR THAT DO NOT RECEIVE A TAX CREDIT SHALL BE CONSIDERED ELIGI-
31 BLE DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIB-
32 UTIONS.

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

34 (6) IF MADE TO A PUBLIC SCHOOL DISTRICT SUCH CONTRIBUTIONS SHALL BE
35 SUPERVISED BY A PERSON SO DESIGNATED BY THE CHANCELLOR OR SUPERINTEN-
36 DENT. IF MADE TO A PARTICULAR SCHOOL THEY SHALL BE SUPERVISED BY THE
37 SCHOOL PRINCIPAL. REPORTS OF DEPOSITS AND DISBURSEMENTS SHALL BE MADE TO
38 THE LOCAL BOARD OF EDUCATION ANNUALLY. CHARTER SCHOOLS SHALL MAKE SUCH
39 REPORTS TO THE RESPECTIVE CHARTER SCHOOL BOARD OF TRUSTEES, AS APPLICA-
40 BLE.

41 (W) CONTRIBUTIONS TO LOCAL EDUCATION FUND CREDIT. IN LIEU OF CONTRIB-
42 UTIONS IN SUBSECTION (V) OF THIS SECTION, A CREDIT IS ALLOWED FOR TAXA-
43 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN FOR
44 THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING
45 THE TAXABLE YEAR TO A LOCAL EDUCATION FUND. A TAXPAYER WHO RECEIVES AN
46 AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE
47 COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTI-
48 CLE.

49 (1) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT
50 OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXABLE YEAR, NOT TO EXCEED
51 SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE TAXPAYER UNDER THIS ARTICLE
52 IN THE TAXABLE YEAR, AFTER APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY
53 THE TAXPAYER. A SHAREHOLDER OF A NEW YORK S CORPORATION OR A PARTNER OF
54 A PARTNERSHIP (OR OTHER ENTITY TREATED AS A PARTNERSHIP FOR INCOME TAX
55 PURPOSES) SHALL BE TREATED AS THE TAXPAYER WITH RESPECT TO HIS OR HER
56 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-SEVEN, FORTY-EIGHT AND FORTY-NINE 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 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 BE CONSIDERED ELIGIBLE DEDUCTIONS AS ALLOWED UNDER THIS ARTICLE FOR CHARITABLE CONTRIBUTIONS. CONTRIBUTIONS IN EXCESS OF SEVENTY-FIVE PERCENT OF A TAXPAYERS' 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) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO A LOCAL EDUCATION FUND FOR THE BENEFIT OF A DESIGNATED STUDENT.

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

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

(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 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) THE TAXPAYER SHALL BE RESPONSIBLE FOR NOTIFYING THE COMMISSIONER OF THE INTENTION TO CLAIM THE ALLOWABLE CREDIT, NO LATER THAN DECEMBER THIRTY-FIRST.

(W-2) CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, A CREDIT IS ALLOWED FOR THE PERSONNEL EMPLOYED IN ANY PUBLIC SCHOOL, INCLUDING ANY CHARTER SCHOOL, OR IN ANY ELIGIBLE NON-PUBLIC SCHOOL FOR THE PURCHASE OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES.

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

(2) THE TAXPAYER SHALL BE RESPONSIBLE FOR NOTIFYING THE COMMISSIONER OF THE INTENTION TO CLAIM THE ALLOWABLE CREDIT, NO LATER THAN DECEMBER THIRTY-FIRST, INDICATING WHETHER THE PURCHASE WAS MADE FOR USE IN A PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR AN ELIGIBLE NON-PUBLIC SCHOOL.

(W-3) CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT. IN LIEU OF CONTRIBUTIONS IN SUBSECTIONS (V) AND (W) OF THIS SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOUR-

TEEN, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO AN EDUCATIONAL SCHOLARSHIP ORGANIZATION. A TAXPAYER WHO RECEIVES 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-SEVEN, FORTY-EIGHT AND FORTY-NINE 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 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 TAXPAYERS' 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) THIS TAX CREDIT MAY NOT BE CLAIMED FOR ANY CONTRIBUTION TO AN EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR THE BENEFIT OF A DESIGNATED PUPIL.

(6) SCHOLARSHIP AMOUNT.

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

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

S 4. Section 210 of the tax law is amended by adding four new subdivisions 46, 47, 48 and 49 to read as follows:

1 46. DEFINITIONS. AS USED IN SUBDIVISIONS FORTY-SEVEN, FORTY-EIGHT AND
2 FORTY-NINE OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
3 MEANINGS:

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

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

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

16 (2) IS ESTABLISHED FOR THE EXPLICIT PURPOSE OF SUPPORTING AT LEAST ONE
17 PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR A SPECIFIC PUBLIC SCHOOL
18 DISTRICT.

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

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

23 (2) ALLOCATES AT LEAST NINETY PERCENT OF DONATIONS FOR WHICH CREDITS
24 ARE CLAIMED UNDER SUBDIVISION FORTY-NINE OF THIS SECTION FOR EDUCATIONAL
25 SCHOLARSHIPS;

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

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

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

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

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

46 47. CONTRIBUTIONS TO PUBLIC EDUCATION CREDIT. (A) IN LIEU OF CONTRIB-
47 UTIONS IN SUBDIVISIONS FORTY-EIGHT AND FORTY-NINE OF THIS SECTION, FOR
48 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOUR-
49 TEEN, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS
50 MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A PUBLIC EDUCATION ENTI-
51 TY. ACCEPTANCE AND RECEIPT OF ALL SUCH CONTRIBUTIONS SHALL BE PERMITTED.
52 A TAXPAYER WHO RECEIVES AN AUTHORIZED CERTIFICATE OF RECEIPT SHALL BE
53 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
54 TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF SUCH CREDIT SHALL BE VALUED
55 AT ONE HUNDRED PERCENT OF THE AMOUNT OF SUCH CONTRIBUTIONS IN ANY TAXA-
56 BLE YEAR, NOT TO EXCEED SEVENTY-FIVE PERCENT OF THE TAX DUE FROM THE

1 TAXPAYER UNDER THIS ARTICLE IN THE TAXABLE YEAR, AFTER APPLICATION OF
2 ANY OTHER ALLOWABLE CREDITS BY THE TAXPAYER.

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

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

10 48. CONTRIBUTIONS TO LOCAL EDUCATION FUND CREDIT. (A) IN LIEU OF
11 CONTRIBUTIONS IN SUBDIVISIONS FORTY-SEVEN AND FORTY-NINE OF THIS
12 SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
13 THOUSAND FOURTEEN, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH
14 CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A LOCAL
15 EDUCATION FUND. A TAXPAYER WHO RECEIVES AN AUTHORIZED CERTIFICATE OF
16 RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
17 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

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

25 49. CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT. IN
26 LIEU OF CONTRIBUTIONS IN SUBDIVISIONS FORTY-SEVEN AND FORTY-EIGHT OF
27 THIS SECTION, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH
28 CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO AN EDUCA-
29 TIONAL SCHOLARSHIP ORGANIZATION. A TAXPAYER WHO RECEIVES AN AUTHORIZED
30 CERTIFICATE OF RECEIPT SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS
31 HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

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

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

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

48 (2) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY AWARD A SCHOLARSHIP TO A
49 PUPIL ENROLLED IN A PUBLIC SCHOOL, INCLUDING A CHARTER SCHOOL, OR AN
50 ELIGIBLE NON-PUBLIC SCHOOL IN AN AMOUNT NOT TO EXCEED THE TUITION AMOUNT
51 OF THE ELIGIBLE NON-PUBLIC SCHOOL, PROVIDED, HOWEVER, THAT THE TOTAL
52 AMOUNT OF SUCH TAX CREDITS SHALL NOT EXCEED THE AMOUNT OF AVAILABLE TAX
53 CREDITS FOR EDUCATIONAL SCHOLARSHIP ORGANIZATIONS SET FORTH IN PARAGRAPH
54 SIX OF SUBDIVISION TWENTY-NINTH OF SECTION ONE HUNDRED SEVENTY-ONE OF
55 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-SIX, FORTY-SEVEN, FORTY-EIGHT AND FORTY-NINE
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 AND
15 PROVIDED THAT NO TAXPAYER MAY APPLY FOR A CREDIT IN EXCESS OF FIVE
16 PERCENT OF ONE HUNDRED TWENTY-FIVE MILLION DOLLARS FOR TAX YEAR TWO
17 THOUSAND FOURTEEN AND ONE HUNDRED FIFTY MILLION DOLLARS FOR TAX YEARS
18 BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN; AND

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

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

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

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

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

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

1 S 6. The department of taxation and finance shall prepare a written
2 report before January 31 of each calendar year, which shall contain
3 statistical information regarding the credits allowed pursuant to
4 subsections (u), (v), (w), (w-1), (w-2) and (w-3) of section 606 and
5 subdivisions 46, 47, 48 and 49 of section 210 of the tax law as added by
6 sections three and four of this act, for the previous calendar year.
7 Copies of such report shall be submitted to the governor, the temporary
8 president of the senate, the speaker of the assembly, the chair of the
9 senate finance committee and the chair of the assembly ways and means
10 committee. Such reports shall contain, but need not be limited to, the
11 number of credits by type and the amount of such credits allowed to
12 taxpayers.

13 S 7. This act shall not be construed to authorize the commissioner of
14 education or the commissioner of taxation and finance to impose any
15 regulation or requirement on the educational program, instruction or
16 activities of an eligible non-public school that receives funding on
17 behalf of an eligible pupil from an educational scholarship organization
18 pursuant to this act, unless specifically authorized by this act.

19 S 8. This act shall take effect immediately.