

1976

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I N S E N A T E

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Introduced by Sens. GOLDEN, FELDER, ADDABBO, AVELLA, BONACIC, BOYLE, CROCI, DIAZ, FLANAGAN, FUNKE, GALLIVAN, HASSELL-THOMPSON, LANZA, LARKIN, LATIMER, MARCHIONE, MARTINS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law and the education 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. The tax law is amended by adding a new section 42 to read as
4 follows:
5 S 42. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. FOR THE
6 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE SAME DEFINITION AS PROVIDED FOR IN ARTICLE TWENTY-FIVE OF THE EDUCATION LAW:
7 "AUTHORIZED CONTRIBUTION";
8 "CONTRIBUTION";
9 "EDUCATIONAL PROGRAM";
10 "EDUCATIONAL SCHOLARSHIP ORGANIZATION";
11 "ELIGIBLE PUPIL";
12 "LOCAL EDUCATION FUND";
13 "NONPUBLIC SCHOOL";
14 "PUBLIC EDUCATION ENTITY";
15 "PUBLIC SCHOOL";
16 "QUALIFIED CONTRIBUTION";
17 "QUALIFIED EDUCATOR";
18 "QUALIFIED SCHOOL";
19 "SCHOLARSHIP"; AND
20 "SCHOOL IMPROVEMENT ORGANIZATION".
21 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE
22 NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED CREDIT AGAINST
23

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

LBD07927-02-5

1 SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (L) OF
2 THIS SECTION, WITH RESPECT TO QUALIFIED CONTRIBUTIONS MADE DURING THE
3 TAXABLE YEAR.

4 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE NINETY PERCENT
5 OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS, CAPPED AT ONE MILLION
6 DOLLARS. A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP, MEMBER OF A
7 LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION SHALL BE
8 ALLOWED TO CLAIM ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PARTNER-
9 SHIP, LIMITED LIABILITY COMPANY OR S CORPORATION, PROVIDED THAT SUCH A
10 TAXPAYER SHALL NOT CLAIM CREDIT IN EXCESS OF THE LIMIT IMPOSED BY THE
11 PRECEDING SENTENCE.

12 (D) INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEBSITE. THE COMMIS-
13 SIONER SHALL MAINTAIN ON THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE
14 AMOUNT OF AVAILABLE CREDIT FOR WHICH TAXPAYERS MAY APPLY PURSUANT TO
15 THIS SECTION. SUCH RUNNING TOTAL SHALL BE UPDATED ON A DAILY BASIS.
16 ADDITIONALLY, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S
17 WEBSITE A LIST OF THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION
18 FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS APPROVED TO ISSUE
19 CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION
20 LAW.

21 (E) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO
22 MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT
23 ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-
24 TION, THE TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A CONTRIBUTION
25 AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. SUCH APPLICATION SHALL
26 BE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT
27 MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM,
28 PROVIDED THAT EACH CONTRIBUTION LISTED ON SUCH APPLICATION SHALL BE
29 TREATED AS A SEPARATE APPLICATION AND THAT THE DEPARTMENT SHALL ISSUE
30 SEPARATE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR EACH SUCH APPLICA-
31 TION.

32 (F) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIF-
33 ICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIF-
34 ICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF
35 JANUARY AND ENDS ON THE THIRTY-FIRST DAY OF JANUARY, THE COMMISSIONER
36 SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES.
37 COMMENCING AFTER THE FIFTH DAY OF FEBRUARY, THE COMMISSIONER SHALL ISSUE
38 CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING
39 PHASE ONE, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR
40 WHICH APPLICATIONS HAVE BEEN RECEIVED DURING PHASE ONE EXCEEDS THE
41 AMOUNT OF THE CREDIT CAP IN SUBDIVISION (H) OF THIS SECTION, THE AUTHOR-
42 IZED CONTRIBUTION AMOUNT LISTED ON EACH CONTRIBUTION AUTHORIZATION
43 CERTIFICATE SHALL EQUAL THE PRO-RATA SHARE OF THE CREDIT CAP. IF THE
44 CREDIT CAP IS NOT EXCEEDED, PHASE TWO COMMENCES ON FEBRUARY FIRST AND
45 ENDS ON DECEMBER THIRTY-FIRST. DURING PHASE TWO THE COMMISSIONER SHALL
46 ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES ON A FIRST-COME FIRST
47 SERVE BASIS BASED UPON THE DATE THE DEPARTMENT RECEIVED THE TAXPAYER'S
48 APPLICATION FOR SUCH CERTIFICATE. CONTRIBUTION AUTHORIZATION CERTIF-
49 ICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE SHALL BE MAILED NO
50 LATER THAN THE TWENTIETH DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION
51 CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE MAILED
52 WITHIN FIVE DAYS OF RECEIPT OF SUCH APPLICATIONS.

53 2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION
54 AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS
55 ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED ON THE
56 CERTIFICATE MUST BE MADE, WHICH SHALL BE NO LATER THAN DECEMBER THIRTY-

FIRST OF THE YEAR FOR WHICH THE CONTRIBUTION AUTHORIZATION CERTIFICATE WAS ISSUED, (III) THE AMOUNT OF AUTHORIZED CONTRIBUTION, (IV) THE CERTIFICATE NUMBER, (V) THE TAXPAYER'S NAME AND ADDRESS, (VI) THE NAME AND ADDRESS OF THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION TO WHICH THE TAXPAYER MAY MAKE THE AUTHORIZED CONTRIBUTION, AND (VII) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

3. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE. UPON THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE TO A TAXPAYER, THE COMMISSIONER SHALL NOTIFY THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION OF THE ISSUANCE OF SUCH CONTRIBUTION AUTHORIZATION CERTIFICATE. SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME AND ADDRESS, (II) THE DATE SUCH CERTIFICATE WAS ISSUED, (III) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE MADE BY THE TAXPAYER, (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION, (V) THE CONTRIBUTION AUTHORIZATION CERTIFICATE'S CERTIFICATE NUMBER, AND (VI) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

(G) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR A CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE DEPARTMENT THAT THE DEPARTMENT ISSUED A CONTRIBUTION AUTHORIZATION CERTIFICATE TO THE TAXPAYER FOR SUCH CONTRIBUTION.

2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES AN AUTHORIZED CONTRIBUTION TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SET FORTH ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER NO LATER THAN THE DATE BY WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO BE MADE, SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO THE TAXPAYER A CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT IF THE TAXPAYER CONTRIBUTES AN AMOUNT THAT IS LESS THAN THE AMOUNT LISTED ON THE TAXPAYER'S CONTRIBUTION AUTHORIZATION CERTIFICATE, THE TAXPAYER SHALL NOT BE ISSUED A CERTIFICATE OF RECEIPT FOR SUCH CONTRIBUTION.

3. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL STATE (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, (II) THE TAXPAYER'S NAME AND ADDRESS, (III) THE DATE FOR EACH CONTRIBUTION, (IV) THE AMOUNT OF EACH CONTRIBUTION AND THE CORRESPONDING CONTRIBUTION AUTHORIZATION CERTIFICATE NUMBER, (V) THE TOTAL AMOUNT OF CONTRIBUTIONS, (VI) CERTIFICATE OF RECEIPT NUMBER AND (VII) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

4. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-

1 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
2 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH
3 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER
4 PRESCRIBED BY THE DEPARTMENT.

5 5. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE
6 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
7 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT
8 RECEIVED NOTIFICATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION (F) OF
9 THIS SECTION REGARDING THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
10 CERTIFICATE TO A TAXPAYER SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION
11 DATE FOR SUCH AUTHORIZED CONTRIBUTION, PROVIDE NOTIFICATION TO THE
12 DEPARTMENT FOR EACH TAXPAYER THAT FAILED TO MAKE THE AUTHORIZED CONTRIB-
13 UTION TO SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,
14 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION IN THE
15 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

16 6. FAILURE TO NOTIFY THE DEPARTMENT. WITHIN THIRTY DAYS OF THE DISCOV-
17 ERY OF THE FAILURE OF ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT
18 PROGRAM, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
19 TO COMPLY WITH THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS
20 FOUR AND FIVE OF THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE
21 OF COMPLIANCE FAILURE TO SUCH ENTITY, PROGRAM, FUND, OR ORGANIZATION.
22 SUCH ENTITY, PROGRAM, FUND, OR ORGANIZATION SHALL HAVE THIRTY DAYS FROM
23 THE DATE OF SUCH NOTICE TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARA-
24 GRAPHS FOUR AND FIVE OF THIS SUBDIVISION. SUCH PERIOD MAY BE EXTENDED
25 FOR AN ADDITIONAL THIRTY DAYS UPON THE REQUEST OF THE ENTITY, PROGRAM,
26 FUND, OR ORGANIZATION. UPON THE EXPIRATION OF PERIOD FOR COMPLIANCE SET
27 FORTH IN THE NOTICE PRESCRIBED BY THIS PARAGRAPH, THE COMMISSIONER SHALL
28 NOTIFY THE BOARD OF REGENTS AND THE COMMISSIONER OF EDUCATION THAT SUCH
29 ENTITY, PROGRAM, FUND, OR ORGANIZATION FAILED TO MAKE THE NOTIFICATIONS
30 PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION.

31 (H) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION
32 AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR CALENDAR YEAR
33 TWO THOUSAND SIXTEEN SHALL BE ONE HUNDRED FIFTY MILLION DOLLARS. IN
34 CALENDAR YEAR TWO THOUSAND SEVENTEEN, THE MAXIMUM PERMITTED CREDITS
35 UNDER THIS SECTION AVAILABLE TO ALL TAXPAYERS SHALL BE TWO HUNDRED TWEN-
36 TY-FIVE MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED
37 TO THE CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. FOR CALENDAR
38 YEAR TWO THOUSAND EIGHTEEN AND EACH CALENDAR YEAR THEREAFTER, THE MAXI-
39 MUM PERMITTED CREDITS AVAILABLE TO ALL TAXPAYERS SHALL BE THREE HUNDRED
40 MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED TO THE
41 CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. THE MAXIMUM PERMITTED
42 CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS SHALL BE ALLO-
43 CATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT
44 ORGANIZATIONS, AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT TO EDUCA-
45 TIONAL SCHOLARSHIP ORGANIZATIONS.

46 (I) ADDITIONS TO CREDIT CAP. UNISSUED CERTIFICATES OF RECEIPT. ANY
47 AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-ISSUANCE
48 OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP PRESCRIBED IN
49 SUBDIVISION (H) OF THIS SECTION FOR THE IMMEDIATELY FOLLOWING YEAR.

50 (J) REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE
51 AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMEN-
52 TATION OF THIS SECTION.

53 ON OR BEFORE THE LAST DAY OF JUNE FOR EACH CALENDAR YEAR, FOR THE
54 IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND THE COMMISSIONER OF
55 EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO THE GOVERNOR, THE
56 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE

1 CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEM-
2 BLY WAYS AND MEANS COMMITTEE REGARDING THE EDUCATION INVESTMENT TAX
3 CREDIT. SUCH REPORT SHALL CONTAIN INFORMATION FOR ARTICLES NINE-A AND
4 TWENTY-TWO, RESPECTIVELY, REGARDING: (I) THE NUMBER OF APPLICATIONS
5 RECEIVED; (II) THE NUMBER OF AND AGGREGATE VALUE OF THE CONTRIBUTION
6 AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO PUBLIC EDUCATION
7 ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND
8 SCHOLARSHIP ORGANIZATIONS, RESPECTIVELY; (III) THE GEOGRAPHICAL DISTRIB-
9 UTION BY COUNTY OF (A) THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION
10 CERTIFICATES, DISTRIBUTION BY COUNTY OF (B) THE PUBLIC EDUCATION ENTI-
11 TIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND
12 EDUCATIONAL SCHOLARSHIP ORGANIZATIONS LISTED ON THE ISSUED CONTRIBUTION
13 AUTHORIZATION CERTIFICATES; AND (IV) INFORMATION, INCLUDING GEOGRAPHICAL
14 DISTRIBUTION BY COUNTY, OF THE NUMBER OF ELIGIBLE PUPILS THAT RECEIVED
15 SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS ATTENDED BY ELIGIBLE
16 PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE AVERAGE VALUE OF SCHOL-
17 ARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE COMMISSIONER AND DESIG-
18 NATED EMPLOYEES OF THE DEPARTMENT, THE BOARD OF REGENTS, THE COMMISSION-
19 ER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE STATE EDUCATION
20 DEPARTMENT, SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE
21 INFORMATION REGARDING THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCA-
22 TION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED FOR
23 APPROVAL TO BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS; AND THE
24 PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL
25 EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AUTHORIZED TO
26 ISSUE CERTIFICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR
27 DERIVED FROM APPLICATION FORMS AND REPORTS SUBMITTED TO THE EDUCATION
28 DEPARTMENT OR BOARD OF REGENTS.

29 (L) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
30 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

31 1. ARTICLE 9-A: SECTION 210-B; SUBDIVISION 49;

32 2. ARTICLE 22: SECTION 606; SUBSECTIONS (I) AND (CCC).

33 S 3. Paragraph (b) of subdivision 9 of section 208 of the tax law is
34 amended by adding a new subparagraph 22 to read as follows:

35 (22) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
36 HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH A CREDIT IS
37 CLAIMED PURSUANT TO SUBDIVISION FORTY-NINE OF SECTION TWO HUNDRED TEN-B
38 OF THIS ARTICLE.

39 S 4. Section 210-B of the tax law is amended by adding a new subdivi-
40 sion 49 to read as follows:

41 49. EDUCATION INVESTMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A
42 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
43 SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTI-
44 CLE.

45 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
46 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
47 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) OR (D) OF
48 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF
49 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR QUALIFIED
50 CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
51 AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER
52 TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX
53 FOR SUCH YEAR OR YEARS.

54 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
55 of the tax law is amended by adding a new clause (xli) to read as
56 follows:

(XLI) EDUCATION INVESTMENT AMOUNT OF CREDIT UNDER SUBDIVISION
TAX CREDIT UNDER SUBSECTION (CCC) FORTY-NINE OF SECTION TWO HUNDRED
TEN-B

S 6. Section 606 of the tax law is amended by adding two new subsections (w) and (w-1) to read as follows:

(W) HOME-BASED INSTRUCTIONAL MATERIALS CREDIT. (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF INSTRUCTIONAL MATERIALS APPROVED BY THE EDUCATION DEPARTMENT OR BOARD OF REGENTS FOR USE IN NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAMS; PROVIDED, THAT THE AMOUNT OF CREDIT CLAIMED DOES NOT EXCEED THE LESSER OF TWO HUNDRED DOLLARS OR ONE HUNDRED PERCENT OF THE COST OF SUCH PURCHASES MADE BY THE TAXPAYER DURING THE 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 AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(W-1) INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. (1) FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT EQUAL TO THE LESSER OF THE AMOUNT PAID BY THE TAXPAYER DURING THE TAXABLE YEAR FOR INSTRUCTIONAL MATERIALS AND SUPPLIES, OR TWO HUNDRED DOLLARS; PROVIDED THAT THE TAXPAYER IS A TEACHER OR INSTRUCTOR IN A QUALIFIED SCHOOL, AS DEFINED IN SECTION FORTY-TWO OF THIS CHAPTER, FOR AT LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR. FOR PURPOSES OF THIS SUBSECTION, THE TERM "MATERIALS AND SUPPLIES" MEANS INSTRUCTIONAL MATERIALS OR SUPPLIES THAT ARE USED IN THE CLASSROOM IN ANY QUALIFIED SCHOOL.

(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 AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 7. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) EDUCATION INVESTMENT TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 8. Subdivision (c) of section 615 of the tax law is amended by adding a new paragraph 9 to read as follows:

(9) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR CONTRIBUTIONS MADE FOR WHICH A TAXPAYER CLAIMS A CREDIT UNDER SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

S 9. The education law is amended by adding a new article 25 to read as follows:

ARTICLE 25

EDUCATION INVESTMENT TAX CREDIT PROGRAM

SECTION 1209. SHORT TITLE.

1210. DEFINITIONS.

1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1213. APPLICATION APPROVAL.

1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1215. RECORDKEEPING.

1216. JOINT ANNUAL REPORT.

1217. COMMISSIONER; POWERS.

S 1209. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EDUCATION INVESTMENT TAX CREDIT PROGRAM".

S 1210. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO A TAXPAYER.

(2) "CONTRIBUTION" MEANS A DONATION PAID BY CASH, CHECK, ELECTRONIC FUNDS TRANSFER, DEBIT CARD OR CREDIT CARD MADE BY THE TAXPAYER DURING THE TAX YEAR.

(3) "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC PROGRAM OF A PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM, OR PROVIDES OR EXPANDS A PRE-KINDERGARTEN PROGRAM OR AN AFTER-SCHOOL PROGRAM TO THE PUBLIC SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERIALS, PROGRAMS OR OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (A) INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMILY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATHEMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (B) INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUNSELING; OR (C) USE OF SPECIALIZED INSTRUCTIONAL MATERIALS, INSTRUCTORS OR INSTRUCTION NOT PROVIDED BY A PUBLIC SCHOOL.

(4) "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY WHICH (A) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (B) COMMITS FOR THE EXPENDITURE OF AT LEAST NINETY PERCENT OF THE REVENUE FROM QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS FOR SCHOLARSHIPS, (C) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND (D) PROVIDES SCHOLARSHIPS TO ELIGIBLE PUPILS FOR USE AT NO FEWER THAN THREE QUALIFIED SCHOOLS.

(5) "ELIGIBLE PUPIL" MEANS A CHILD WHO (A) IS A RESIDENT OF THIS STATE, (B) IS SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED TWO OF THIS CHAPTER 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, (C) ATTENDS OR IS ABOUT TO ATTEND A QUALIFIED SCHOOL, AND (D) RESIDES IN A HOUSEHOLD THAT HAS A FEDERAL ADJUSTED GROSS INCOME OF FIVE HUNDRED THOUSAND DOLLARS OR LESS, PROVIDED HOWEVER, FOR HOUSEHOLDS WITH THREE OR MORE DEPENDENT CHILDREN, SUCH INCOME LEVEL SHALL BE INCREASED BY TEN THOUSAND DOLLARS PER DEPENDENT CHILD IN EXCESS OF TWO, NOT TO EXCEED FIVE HUNDRED FIFTY THOUSAND DOLLARS.

1 (6) "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (A) IS
2 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
3 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (B) IS ESTABLISHED FOR
4 THE PURPOSE OF SUPPORTING AN EDUCATIONAL PROGRAM IN AT LEAST ONE PUBLIC
5 SCHOOL, OR PUBLIC SCHOOL DISTRICT, (C) USES AT LEAST NINETY PERCENT OF
6 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY
7 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS TO SUPPORT THE PUBLIC SCHOOL
8 OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS
9 BEEN ESTABLISHED TO SUPPORT, AND (D) DEPOSITS AND HOLDS QUALIFIED
10 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN
11 ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL
12 SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE.

13 (7) "NONPUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
14 PROGRAM OR ELEMENTARY, SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL
15 LOCATED IN THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT IS PROVIDING
16 INSTRUCTION AT ONE OR MORE LOCATIONS TO A STUDENT IN ACCORDANCE WITH
17 SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED FOUR OF THIS CHAPTER.

18 (8) "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL OR A PUBLIC SCHOOL
19 DISTRICT, PROVIDED THAT SUCH PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT
20 DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
21 QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE PUBLIC
22 SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH
23 QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND IS APPROVED
24 TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

25 (9) "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
26 THIS STATE GUARANTEED BY ARTICLE ELEVEN OF THE CONSTITUTION OR CHARTER
27 SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THIS CHAPTER.

28 (10) "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE
29 BY A TAXPAYER TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGAN-
30 IZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
31 THAT IS LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO
32 THE TAXPAYER AND FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF
33 RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION.

34 (11) "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER OR
35 INSTRUCTOR IN A QUALIFIED SCHOOL FOR AT LEAST NINE HUNDRED HOURS DURING
36 A SCHOOL YEAR.

37 (12) "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NONPUBLIC SCHOOL.

38 (13) "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP WHICH PROVIDES A
39 TUITION GRANT AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL
40 IN AN AMOUNT NOT TO EXCEED THE TUITION CHARGED TO ATTEND SUCH SCHOOL
41 LESS ANY OTHER EDUCATIONAL SCHOLARSHIP RECEIVED BY SUCH ELIGIBLE PUPIL
42 OR HIS OR HER PARENT, PARENTS OR GUARDIAN FOR SUCH ELIGIBLE PUPIL'S
43 TUITION; PROVIDED, HOWEVER, IN THE CASE OF AN ELIGIBLE PUPIL ATTENDING A
44 PUBLIC SCHOOL IN A PUBLIC SCHOOL DISTRICT OF WHICH SUCH PUPIL IS NOT A
45 RESIDENT, THE AMOUNT OF THE EDUCATIONAL SCHOLARSHIP AWARDED MAY NOT
46 EXCEED THE TUITION CHARGED BY THE PUBLIC SCHOOL PURSUANT TO PARAGRAPH D
47 OF SUBDIVISION FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF THIS CHAPTER
48 LESS ANY OTHER EDUCATIONAL SCHOLARSHIP RECEIVED BY SUCH ELIGIBLE PUPIL
49 OR HIS OR HER PARENT, PARENTS OR GUARDIAN FOR SUCH ELIGIBLE PUPIL'S
50 TUITION, BUT ONLY IF THE PUBLIC SCHOOL DISTRICT OF WHICH SUCH PUPIL IS A
51 RESIDENT IS NOT REQUIRED TO PAY FOR SUCH TUITION.

52 (14) "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
53 WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
54 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
55 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING
56 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIB-

UTIONS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL PROGRAMS, EITHER BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCATIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, (III) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND (IV) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE. SUCH ENTITY MAY ALLOW THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM, PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A PUBLIC SCHOOL.

S 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT PROVIDED, THAT A PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL NOT BE APPROVED IF EITHER (A) THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT FAILS TO DEPOSIT AND HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE SCHOOL OR SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, OR (B) THE BOARD OF REGENTS HAS REVOKED SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT PURSUANT TO SECTION TWELVE HUNDRED FOURTEEN OF THIS ARTICLE.

2. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND LOCAL EDUCATION FUNDS. NO SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION OR LOCAL EDUCATION FUND SHALL ISSUE ANY CERTIFICATES OF RECEIPT WITHOUT FILING AN APPLICATION PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND RECEIVING APPROVAL PURSUANT TO SECTION TWELVE HUNDRED THIRTEEN OF THIS ARTICLE.

S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, AND LOCAL EDUCATION FUND SHALL SUBMIT AN APPLICATION TO THE BOARD OF REGENTS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE BOARD; PROVIDED THAT SUCH APPLICATION SHALL INCLUDE: (1) SUBMISSION OF DOCUMENTATION THAT SUCH SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE; (2) THE MOST RECENT ANNUAL FINANCIAL AUDIT, WHICH SHALL BE COMPLETED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND A LIST OF NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF THE SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION; AND (3) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL PROVIDE CRITERIA FOR THE AWARDED OF SCHOLARSHIPS TO ELIGIBLE STUDENTS. THE BOARD OF REGENTS, COMMISSIONER OR DEPARTMENT SHALL NOT REQUIRE ANY OTHER INFORMATION FOR SUCH APPLICATION EXCEPT AS AUTHORIZED IN THIS ARTICLE OR BY SECTION FORTY-ONE OF THE TAX LAW.

S 1213. APPLICATION APPROVAL. THE BOARD OF REGENTS SHALL REVIEW EACH APPLICATION TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE. APPROVAL OR DENIAL OF AN APPLICATION SHALL BE MADE AT THE NEXT SCHEDULED MEETING OF THE BOARD OF REGENTS THAT FOLLOWS THE RECEIPT OF SUCH APPLICATION, BUT NOT LATER THAN THE NEXT MEETING THEREAFTER.

S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE BOARD OF REGENTS, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION,

1 EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC
2 SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A
3 FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS
4 VIOLATED THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW. THESE
5 VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING:
6 (1) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE OR SECTION
7 FORTY-TWO OF THE TAX LAW, (2) THE FAILURE TO MAINTAIN FULL AND ADEQUATE
8 RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (3) THE
9 FAILURE TO SUPPLY SUCH RECORDS TO THE COMMISSIONER, DEPARTMENT OF TAXA-
10 TION AND FINANCE OR BOARD OF REGENTS WHEN REQUESTED BY THE DEPARTMENT OR
11 BOARD, OR (4) THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXA-
12 TION AND FINANCE OF THE ISSUANCE OR NONISSUANCE OF CERTIFICATES OF
13 RECEIPT PURSUANT TO SECTION FORTY-TWO OF THE TAX LAW; PROVIDED HOWEVER,
14 THAT THE BOARD OF REGENTS SHALL NOT REVOKE APPROVAL PURSUANT TO THIS
15 SECTION BASED UPON A VIOLATION OF THE TAX LAW UNLESS THE COMMISSIONER OF
16 TAXATION AND FINANCE AGREES THAT REVOCATION IS WARRANTED; AND PROVIDED
17 FURTHER THAT THE BOARD SHALL NOT REVOKE APPROVAL PURSUANT TO THIS
18 SECTION WHEN THE FAILURE TO COMPLY IS DUE TO CLERICAL ERROR AND NOT
19 NEGLIGENCE OR INTENTIONAL DISREGARD FOR THE LAW. WITHIN FIVE DAYS OF THE
20 DETERMINATION REVOKING APPROVAL, THE BOARD SHALL PROVIDE NOTICE OF SUCH
21 REVOCATION TO THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVE-
22 MENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL
23 DISTRICT AND TO THE DEPARTMENT OF TAXATION AND FINANCE.

24 S 1215. RECORDKEEPING. EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCA-
25 TIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND
26 PUBLIC SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT
27 SHALL MAINTAIN RECORDS INCLUDING (A) NOTIFICATIONS RECEIVED FROM THE
28 DEPARTMENT OF TAXATION AND FINANCE, (B) NOTIFICATIONS MADE TO THE
29 DEPARTMENT OF TAXATION AND FINANCE, (C) COPIES OF QUALIFIED CONTRIB-
30 UTIONS RECEIVED, (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED CONTRIB-
31 UTIONS, (E) COPIES OF ISSUED CERTIFICATES OF RECEIPT, (F) ANNUAL FINAN-
32 CIAL STATEMENTS, (G) IN THE CASE OF SCHOOL IMPROVEMENT ORGANIZATIONS,
33 EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND LOCAL EDUCATION FUNDS, THE
34 APPLICATION SUBMITTED PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS
35 ARTICLE AND THE APPROVAL ISSUED BY THE BOARD OF REGENTS, AND (H) ANY
36 OTHER INFORMATION AS PRESCRIBED BY REGULATION PROMULGATED BY THE COMMIS-
37 SIONER OR RULE PROMULGATED BY THE BOARD OF REGENTS.

38 S 1216. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF JUNE FOR
39 EACH CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE
40 COMMISSIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN
41 SUBDIVISION (K) OF SECTION FORTY-TWO OF THE TAX LAW.

42 S 1217. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN
43 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS
44 SECTION. THE COMMISSIONER SHALL MAKE ANY APPLICATION REQUIRED TO BE
45 FILED PURSUANT TO THIS ARTICLE AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS
46 OF THE EFFECTIVE DATE OF THIS ARTICLE.

47 S 10. The education law is amended by adding a new section 1503-a to
48 read as follows:

49 S 1503-A. POWER TO ACCEPT AND SOLICIT GIFTS AND DONATIONS. 1. ALL
50 SCHOOL DISTRICTS ORGANIZED BY SPECIAL LAWS OR PURSUANT TO THE PROVISIONS
51 OF A GENERAL LAW ARE HEREBY AUTHORIZED AND EMPOWERED TO ACCEPT GIFTS,
52 DONATIONS, AND CONTRIBUTIONS TO THE DISTRICT AND TO SOLICIT THE SAME.

53 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY OTHER
54 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE RECEIPT OF SUCH GIFTS,
55 DONATIONS, CONTRIBUTIONS AND OTHER FUNDS, AND ANY INCOME DERIVED THERE-

1 FROM, SHALL BE DISREGARDED FOR THE PURPOSES OF ALL APPORTIONMENTS,
2 COMPUTATIONS, AND DETERMINATIONS OF STATE AID.

3 S 11. Severability. If any provision of this section or the applica-
4 tion thereof to any person or circumstances is held invalid, such inva-
5 lidity shall not affect other provisions or applications of the section
6 which can be given effect without the invalid provision or application,
7 and to this end the provisions of this section are declared to be sever-
8 able.

9 S 12. This act shall take effect immediately and shall apply to taxa-
10 ble years beginning after December 31, 2015.