S T A T E   O F   N E W   Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. CUSICK, THIELE, MARKEY, RAIA, MALLIOTAKIS, JAFFEE, LAVINE, ESPINAL, ROBINSON, GOLDFEDER, SIMANOWITZ, SCARBOROUGH, ROBERTS, BROOK-KRASNY, BENEDETTO, CAMARA, KEARNS -- Multi-Sponsored by -- M. of A. BOYLAND, CORWIN, CRESPO, CURRAN, CYMBROWITZ, ENGLEBRIGHT, FINCH, GABRYSZAK, GIBSON, HIKIND, JACOBS, KOLB, LANCMAN, LATIMER, LENTOL, McENENY, PALMESANO, P. RIVERA, SCHIMEL, SCHIMMINGER, TITONE, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Higher Education -- reference changed to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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:

Section 1. Short title. This act shall be known and may be cited as the "education investment incentives act".

S 2. Legislative findings and intent. The legislature hereby finds and declares that:

a. At a time when the state is considering ways of reducing the tax burden for New York state residents and educators are seeking an expansion of financial resources, charitable giving for educational purposes should be stimulated;

b. Permitting public education entities such as school districts and individual public schools to accept and receive voluntary cash contributions will lessen the need for additional tax revenue;

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

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c. Encouraging voluntary support for education, without prejudice for or against any state-sanctioned educational enterprise, promotes the state's interest in providing the highest quality education to all children in the state;

d. Requiring a sharing of resources among school districts will insure a more equitable distribution of financial support;

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, 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, BUT SHALL NOT INCLUDE 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.

(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 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 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 THIRTEEN 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) IF 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 THIRTEEN, A CREDIT IS ALLOWED FOR THE PERSONNEL EMPLOYED IN ANY PUBLIC 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, OR AN ELIGIBLE NON-PUBLIC SCHOOL.

(W-3) CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, 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 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 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 45, 46, 47 and 48 to read as follows:

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

(A) "PUBLIC EDUCATION ENTITY" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT OR ANY INDIVIDUAL PUBLIC SCHOOL, BUT SHALL NOT INCLUDE 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.

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

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

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

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

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

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

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

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

(D) "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.

(E) "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 A PUBLIC EDUCATION ENTITY, OR OF A LOCAL EDUCATION FUND OR OF AN EDUCATIONAL SCHOLARSHIP ORGANIZATION.

(F) "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.

46. CONTRIBUTIONS TO PUBLIC EDUCATION CREDIT. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A CREDIT IS ALLOWED FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A PUBLIC EDUCATION ENTITY. ACCEPT-

ANCE 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. 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.

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

(C) 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.

47. CONTRIBUTIONS TO LOCAL EDUCATION FUND CREDIT. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A CREDIT IS ALLOWED 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.

(B) 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.

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

48. CONTRIBUTIONS TO EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT. 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 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.

(A) THE AMOUNT OF SUCH CREDIT SHALL BE VALUED AT ONE HUNDRED PERCENT 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.

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

(C) SCHOLARSHIP AMOUNT. (1) 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.

(2) AN EDUCATION SCHOLARSHIP ORGANIZATION MAY AWARD A SCHOLARSHIP TO A PUPIL ENROLLED IN A PUBLIC SCHOOL, OR AN ELIGIBLE 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 5. Section 171 of the tax law is amended by adding a new subdivision twenty-ninth to read as follows:

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

(1) MAINTAIN A LIST OF PUBLIC SCHOOL DISTRICTS, INDIVIDUAL PUBLIC SCHOOLS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS; AND

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

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

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

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

(6) MAKE NO MORE THAN TWO HUNDRED FIFTY MILLION DOLLARS IN CREDITS AVAILABLE IN ANY SINGLE TAX YEAR, PROVIDED THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO TAXPAYERS WHO MAKE DONATIONS TO PUBLIC EDUCATION ENTITIES AND LOCAL EDUCATION FUNDS, AND FOR THE PURCHASE BY SCHOOL PERSONNEL, OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES, AND THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO EDUCATION SCHOLARSHIP ORGANIZATIONS AND FOR HOME-BASED INSTRUCTIONAL MATERIALS, PROVIDED FURTHER, THAT BEGINNING IN TAX YEAR TWO THOUSAND FOURTEEN AND ANNUALLY THEREAFTER, MAKE NO MORE THAN THREE HUNDRED MILLION DOLLARS IN CREDITS AVAILABLE IN ANY SINGLE TAX YEAR, PROVIDED THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO TAXPAYERS WHO MAKE DONATIONS TO PUBLIC EDUCATION ENTITIES AND LOCAL EDUCATION FUNDS, AND FOR THE PURCHASE BY SCHOOL PERSONNEL OF CLASSROOM INSTRUCTIONAL MATERIALS AND SUPPLIES, AND THAT FIFTY PERCENT OF SUCH CREDITS SHALL BE AFFORDED TO EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND FOR HOME-BASED INSTRUCTIONAL MATERIALS; AND

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

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

S 6. Excess contributions. Contributions exceeding the allowed annual maximum of the amount set forth in subdivision 29th of section 171 of the tax law to public educational entities, local educational funds and for the purchase of classroom instructional materials and supplies for use in a public school, or an eligible non-public school; or the allowed annual maximum of the amount set forth in subdivision 29th of section 171 of the tax law to education scholarship organizations and for the purchase of home-based instructional materials, shall be applied to the following tax year, and the donor so notified within one business day.

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

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

S 9. This act shall take effect immediately.