

1826--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CUSICK, THIELE, MARKEY, MALLIOTAKIS, LAVINE, ESPINAL, ROBINSON, GOLDFEDER, SIMANOWITZ, SCARBOROUGH, BROOK-KRASNY, BENEDETTO, CAMARA, KEARNS, STEVENSON, HEVESI, PERRY, BARRETT, BORELLI, CURRAN, WEPRIN, ROZIC, BRINDISI, CLARK, RAMOS, SKOUFIS, RODRIGUEZ, RUSSELL, DenDEKKER, ZEBROWSKI, GJONAJ, MILLER, SKARTADOS, MOSLEY, GANTT -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, BLANKENBUSH, BOYLAND, BRAUNSTEIN, BUTLER, COLTON, COOK, CORWIN, CRESPO, CROUCH, CYMBROWITZ, DIPIETRO, ENGLEBRIGHT, FINCH, FITZPATRICK, FRIEND, GABRYSZAK, GARBARINO, GIBSON, GIGLIO, GOODELL, GRAF, HAWLEY, HEASTIE, HENNESSEY, HIKIND, HOOPER, JACOBS, JORDAN, KATZ, KIM, KOLB, LALOR, LENTOL, P. LOPEZ, LUPARDO, MAGEE, MAISEL, McDONALD, McDONOUGH, McLAUGHLIN, MOYA, NOJAY, OAKS, ORTIZ, OTIS, PALMESANO, PEOPLES-STOKES, PRETLOW, RA, REILICH, RIVERA, ROSA, SCHIMEL, SCHIMMINGER, SEPULVEDA, SIMOTAS, SOLAGES, STEC, SWEENEY, TENNEY, TITONE, TITUS, WALTER, WEINSTEIN, WEISENBERG, WRIGHT -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the education law, in relation to enacting the "education investment tax credit 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 tax credit act".

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

5 a. The education of the children of this state is one of the founda-
6 tions of a strong society that requires an academically robust and
7 financially sound school system, both public and non-public;

8 b. At a time when the state is considering ways of reducing the tax
9 burden for New York state residents and educators are seeking an expan-

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

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sion of financial resources, charitable giving for educational purposes should be encouraged;

c. Permitting public education entities such as school districts and individual public schools to accept and receive voluntary cash contributions will be beneficial to taxpayers and educators;

d. 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;

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 credits provided in this act are the students who attend public schools, students who further their educations using tuition scholarships from educational scholarship organizations, and teachers who purchase with personal funds to supply their students and classrooms, and who seek charitable donations for classroom projects and initiatives;

g. Permitting educators 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. The tax law is amended by adding a new section 39 to read as follows:

S 39. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT THAT IS LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER.

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

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

4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY THAT (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS FOR SCHOLARSHIPS, (III) PROVIDES SCHOLARSHIPS WITHOUT LIMITING AVAILABILITY TO ONLY ELIGIBLE PUPILS OF ONE QUALIFIED SCHOOL, (IV) 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 (V) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

5. "ELIGIBLE PUPIL" MEANS A CHILD WHO IS (I) A RESIDENT OF THIS STATE, (II) OF SCHOOL AGE 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 SUCH CHILD IS ENROLLED IN A PRE-KINDERGARTEN PROGRAM, AND (III) ATTENDS OR IS ABOUT TO ATTEND A QUALIFIED SCHOOL.

6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL OR A PUBLIC SCHOOL DISTRICT LOCATED IN THIS STATE, (III) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED TO SUPPORT, (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND (V) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

7. "NON-PUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN PROGRAM OR ELEMENTARY OR SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL IN THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT PROVIDES INSTRUCTION AT ONE OR MORE LOCATIONS TO ELIGIBLE PUPILS IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED FOUR OF THE EDUCATION LAW.

8. "PUBLIC EDUCATION ENTITY" MEANS (I) A SCHOOL DISTRICT IN THIS STATE, (II) A PUBLIC SCHOOL IN THIS STATE, OR (III) A SCHOOL IMPROVEMENT ORGANIZATION, PROVIDED THAT SUCH SCHOOL DISTRICT, PUBLIC SCHOOL OR SCHOOL IMPROVEMENT ORGANIZATION DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE FROM OPERATING OR OTHER FUNDS AND IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

9. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE CONSTITUTION, BUT SHALL NOT INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THE EDUCATION LAW.

10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY A TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION LISTED IN THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF RECEIPT FROM SUCH ENTITY, FUND OR ORGANIZATION.

11. "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER, INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL FOR AT LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR.

12. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NON-PUBLIC SCHOOL LOCATED IN THIS STATE.

13. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT NOT TO EXCEED THE TUITION NECESSARY TO ATTEND SUCH SCHOOL; PROVIDED, HOWEVER, IN THE CASE OF AN ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL IN A DISTRICT OF WHICH SUCH PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION CHARGED BY THE PUBLIC SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, BUT ONLY IF THE SCHOOL DISTRICT OF WHICH SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY FOR SUCH TUITION.

14. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS 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 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 RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-PROFIT ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM, PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A PUBLIC SCHOOL.

(B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO, OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED AN EDUCATION INVESTMENT TAX CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (M) OF THIS SECTION, WITH RESPECT TO QUALIFIED CONTRIBUTIONS FOR WHICH THE APPLICATION REQUIREMENTS OF SUBDIVISION (F) AND THE CERTIFICATION REQUIREMENTS OF SUBDIVISIONS (G) AND (H) OF THIS SECTION HAVE BEEN MET; PROVIDED, HOWEVER, THAT IF THE TAXPAYER ELECTS TO CLAIM AN ITEMIZED DEDUCTION PURSUANT TO SECTION SIX HUNDRED FIFTEEN OF THIS CHAPTER FOR CHARITABLE CONTRIBUTIONS UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, OR A DEDUCTION PURSUANT TO ARTICLES NINE-A, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER FOR SUCH QUALIFIED CONTRIBUTIONS, THE TAXPAYER SHALL NOT BE ALLOWED TO CLAIM BOTH AN EDUCATION INVESTMENT TAX CREDIT AND A DEDUCTION FOR SUCH QUALIFIED CONTRIBUTIONS. THE COMMISSIONER SHALL MAINTAIN A LIST OF THE PUBLIC EDUCATION ENTITIES, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT ARE AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

(C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF THE CREDIT COMPONENTS SPECIFIED IN PARAGRAPHS ONE, TWO AND THREE OF SUBDIVISION (D) OF THIS SECTION FOR THE TAXABLE YEAR; PROVIDED, HOWEVER, THAT THE AMOUNT OF CREDIT FOR QUALIFIED CONTRIBUTIONS SHALL NOT EXCEED THE LESSER OF (I) THE SUM OF SUCH CREDIT COMPONENTS, OR (II) THE CREDIT LIMITATION PRESCRIBED BY SUBDIVISIONS (I) AND (J) OF THIS SECTION. WHEN

1 A QUALIFIED CONTRIBUTION IS MADE BY A PARTNERSHIP, ANY DIRECT OR INDI-
2 RECT PARTNER IN SUCH PARTNERSHIP WHO OR WHICH IS TAXABLE UNDER ARTICLE
3 NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE
4 A TAXPAYER UNDER THIS PARAGRAPH AND ALLOWED A PRO RATA SHARE OF THE
5 CREDIT AGAINST SUCH TAX. WHEN A QUALIFIED CONTRIBUTION IS MADE BY A NEW
6 YORK S CORPORATION, ANY SHAREHOLDER IN SUCH NEW YORK S CORPORATION WHO
7 IS TAXABLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER SHALL BE A TAXPAYER
8 UNDER THIS PARAGRAPH AND ALLOWED A PRO RATA SHARE OF THE CREDIT AGAINST
9 SUCH TAX.

10 (D) CREDIT COMPONENTS. 1. PUBLIC EDUCATION ENTITY CREDIT COMPONENT.
11 THE PUBLIC EDUCATION ENTITY CREDIT COMPONENT SHALL EQUAL THE SUM OF THE
12 QUALIFIED CONTRIBUTIONS MADE TO A PUBLIC EDUCATION ENTITY OR ENTITIES BY
13 THE TAXPAYER DURING THE TAXABLE YEAR, AS LISTED ON THE CERTIFICATE OR
14 CERTIFICATES OF RECEIPT PROVIDED TO THE TAXPAYER, FOR WHICH THE TAXPAYER
15 HAS RECEIVED A CONTRIBUTION AUTHORIZATION CERTIFICATE; PROVIDED, HOWEV-
16 ER, THAT A TAXPAYER SHALL NOT BE ALLOWED CREDIT FOR ANY QUALIFIED
17 CONTRIBUTIONS IF THE TAXPAYER DESIGNATES THE CONTRIBUTIONS FOR THE
18 DIRECT BENEFIT OF ANY PARTICULAR STUDENT; AND, PROVIDED FURTHER THAT THE
19 TAXPAYER SHALL NOT BE ALLOWED CREDIT FOR QUALIFIED CONTRIBUTIONS FOR
20 WHICH THE TAXPAYER CLAIMED A FEDERAL ITEMIZED DEDUCTION UNLESS THE
21 TAXPAYER ADDS BACK THE AMOUNT OF THE ITEMIZED DEDUCTION PURSUANT TO
22 SECTION TWO HUNDRED EIGHT, SIX HUNDRED TWELVE, FOURTEEN HUNDRED
23 FIFTY-THREE OR FIFTEEN HUNDRED THREE OF THIS CHAPTER.

24 2. LOCAL EDUCATION FUND CREDIT COMPONENT. THE LOCAL EDUCATION FUND
25 CREDIT COMPONENT SHALL EQUAL THE SUM OF THE QUALIFIED CONTRIBUTIONS MADE
26 TO A LOCAL EDUCATION FUND OR FUNDS BY THE TAXPAYER DURING THE TAXABLE
27 YEAR, AS LISTED ON THE CERTIFICATE OR CERTIFICATES OF RECEIPT PROVIDED
28 TO THE TAXPAYER, FOR WHICH THE TAXPAYER HAS RECEIVED A CONTRIBUTION
29 AUTHORIZATION CERTIFICATE; PROVIDED, HOWEVER, THAT A TAXPAYER SHALL NOT
30 BE ALLOWED CREDIT FOR ANY QUALIFIED CONTRIBUTIONS IF THE TAXPAYER DESIG-
31 NATES THE CONTRIBUTIONS FOR THE DIRECT BENEFIT OF ANY PARTICULAR
32 STUDENT; AND, PROVIDED FURTHER THAT THE TAXPAYER SHALL NOT BE ALLOWED
33 CREDIT FOR QUALIFIED CONTRIBUTIONS FOR WHICH THE TAXPAYER CLAIMED A
34 FEDERAL ITEMIZED DEDUCTION UNLESS THE TAXPAYER ADDS BACK THE AMOUNT OF
35 THE ITEMIZED DEDUCTION PURSUANT TO SECTION TWO HUNDRED EIGHT, SIX
36 HUNDRED TWELVE, FOURTEEN HUNDRED FIFTY-THREE OR FIFTEEN HUNDRED THREE OF
37 THIS CHAPTER.

38 3. EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT COMPONENT. THE EDUCA-
39 TIONAL SCHOLARSHIP ORGANIZATION CREDIT COMPONENT SHALL BE THE SUM OF
40 QUALIFIED CONTRIBUTIONS MADE TO AN EDUCATIONAL SCHOLARSHIP ORGANIZATION
41 OR ORGANIZATIONS BY THE TAXPAYER DURING THE TAXABLE YEAR, AS LISTED ON
42 THE CERTIFICATE OR CERTIFICATES OF RECEIPT PROVIDED TO THE TAXPAYER, FOR
43 WHICH THE TAXPAYER HAS RECEIVED A CONTRIBUTION AUTHORIZATION CERTIF-
44 ICATE; PROVIDED, HOWEVER, THAT A TAXPAYER SHALL NOT BE ALLOWED CREDIT
45 FOR ANY QUALIFIED CONTRIBUTIONS THAT ARE FOR THE DIRECT BENEFIT OF ANY
46 PARTICULAR STUDENT; AND, PROVIDED FURTHER THAT THE TAXPAYER SHALL NOT BE
47 ALLOWED A CREDIT FOR QUALIFIED CONTRIBUTIONS FOR WHICH THE TAXPAYER
48 CLAIMED A FEDERAL ITEMIZED DEDUCTION UNLESS THE TAXPAYER ADDS BACK THE
49 AMOUNT OF THE ITEMIZED DEDUCTION PURSUANT TO SECTION TWO HUNDRED EIGHT,
50 SIX HUNDRED TWELVE, FOURTEEN HUNDRED FIFTY-THREE OR FIFTEEN HUNDRED
51 THREE OF THIS CHAPTER.

52 (E) CONTRIBUTION AUTHORIZATION CERTIFICATE; REQUIREMENT. A TAXPAYER
53 SHALL NOT BE ALLOWED A CREDIT PURSUANT TO THIS SECTION FOR ANY CONTRIB-
54 UTION MADE BY THE TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION
55 FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT WAS MADE PRIOR TO THE
56 DEPARTMENT'S ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE FOR

1 SUCH CONTRIBUTION. A TAXPAYER MAY BE ISSUED MULTIPLE CONTRIBUTION
2 AUTHORIZATION CERTIFICATES BY THE DEPARTMENT, PROVIDED THAT THE TAXPAYER
3 MAKES AN APPLICATION FOR EACH SUCH CERTIFICATE.

4 (F) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO
5 MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION
6 FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, THE TAXPAYER SHALL APPLY
7 FOR A CONTRIBUTION AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION.
8 TAXPAYERS THAT WANT TO MAKE MORE THAN ONE CONTRIBUTION TO A PUBLIC
9 EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP
10 ORGANIZATION OR CONTRIBUTE TO MORE THAN ONE PUBLIC EDUCATION ENTITY,
11 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, MUST MAKE
12 A SEPARATE APPLICATION FOR EACH SUCH CONTRIBUTION AUTHORIZATION CERTIF-
13 ICATE. SUCH APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY
14 THE DEPARTMENT, PROVIDED THAT SUCH APPLICATION INCLUDES (I) THE TAXPAY-
15 ER'S NAME AND ADDRESS, (II) THE NAME AND ADDRESS OF EACH PUBLIC EDUCA-
16 TION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-
17 TION THAT WILL RECEIVE A CONTRIBUTION FROM THE TAXPAYER, (III) THE
18 AMOUNT THAT THE TAXPAYER WILL CONTRIBUTE TO SUCH ENTITY, FUND OR ORGAN-
19 IZATION, AND (IV) ANY OTHER INFORMATION THAT THE COMMISSIONER DEEMS
20 NECESSARY; PROVIDED, HOWEVER, THAT THE AGGREGATE AMOUNT OF CREDIT FOR
21 WHICH A TAXPAYER MAY APPLY CANNOT EXCEED FIVE PERCENT OF ONE HALF OF THE
22 CREDIT CAP SET FORTH IN SUBDIVISION (J) OF THIS SECTION. THE DEPARTMENT
23 MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM,
24 PROVIDED THAT EACH APPLICATION SHALL BE TREATED AS A SEPARATE APPLICA-
25 TION.

26 (G) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIF-
27 ICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIF-
28 ICATES IN TWO PHASES IN ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP
29 SET FORTH IN SUBDIVISIONS (I) AND (J) OF THIS SECTION. IN PHASE ONE, THE
30 APPLICATION PROCESS BEGINS ON THE FIRST DAY OF JANUARY AND ENDS ON THE
31 FOURTEENTH DAY OF JANUARY. DURING THIS APPLICATION PERIOD THE COMMIS-
32 SIONER SHALL NOT ISSUE ANY CONTRIBUTION AUTHORIZATION CERTIFICATES. ON
33 THE FIFTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ISSUE CREDIT
34 AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING THE PHASE
35 ONE APPLICATION PERIOD ON A FIRST-COME, FIRST-SERVE BASIS, BASED UPON
36 THE DATE THAT THE DEPARTMENT RECEIVED THE CONTRIBUTION APPLICATION IN
37 ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP SET FORTH IN SUBDIVISIONS
38 (I) AND (J) OF THIS SECTION, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE
39 CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN FILED DURING THE PHASE
40 ONE APPLICATION PERIOD EXCEEDS THE CREDIT GAP FOR QUALIFIED CONTRIB-
41 UTIONS AVAILABLE IN ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP SET
42 FORTH IN SUBDIVISIONS (I) AND (J) OF THIS SECTION, THE AUTHORIZED
43 CONTRIBUTION AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION CERTIF-
44 ICATE SHALL EQUAL THE PRO-RATA SHARE OF THE AVAILABLE CREDIT. IN PHASE
45 TWO, THE APPLICATION PROCESS BEGINS ON THE FIFTEENTH DAY OF JANUARY AND
46 ENDS ON THE THIRTY-FIRST DAY OF DECEMBER. DURING THIS PHASE TWO APPLI-
47 CATION PERIOD, THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION
48 CERTIFICATES ON A FIRST-COME, FIRST-SERVE BASIS, BASED UPON THE DATE
49 THAT THE DEPARTMENT RECEIVED THE CONTRIBUTOR'S APPLICATION FOR SUCH
50 CONTRIBUTION AUTHORIZATION CERTIFICATE; PROVIDED, HOWEVER, THAT IF ON
51 ANY DAY THE DEPARTMENT RECEIVES APPLICATIONS FOR WHICH THE AGGREGATE
52 TOTAL OF CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN MADE EXCEEDS THE
53 CREDIT CAP FOR QUALIFIED CONTRIBUTIONS AVAILABLE TO ALL TAXPAYERS AS SET
54 FORTH IN SUBDIVISION (J) OF THIS SECTION, THE AUTHORIZED CONTRIBUTION
55 AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION CERTIFICATE ON SUCH DAY
56 SHALL EQUAL THE PRO-RATA SHARE OF THE AVAILABLE CREDIT. FOR PURPOSES OF

1 DETERMINING A TAXPAYER'S PRO-RATA SHARE OF AVAILABLE CREDIT, THE COMMIS-
2 SIONER SHALL MULTIPLY THE AMOUNT OF AVAILABLE CREDIT BY A FRACTION, THE
3 NUMERATOR OF WHICH EQUALS THE AUTHORIZED CREDIT AMOUNT LISTED ON THE
4 TAXPAYER'S APPLICATION AND THE DENOMINATOR OF WHICH EQUALS THE AGGREGATE
5 AMOUNT OF AUTHORIZED CREDIT SOUGHT IN ALL OF THE AFFECTED APPLICATIONS.

6 2. CONTRIBUTION AUTHORIZATION CERTIFICATE LIMITS. A TAXPAYER'S AGGRE-
7 GATE AUTHORIZED CONTRIBUTION AMOUNT AS LISTED ON ONE OR MORE AUTHORIZED
8 CONTRIBUTION CERTIFICATES ISSUED TO THE TAXPAYER, SHALL NOT EXCEED THE
9 LESSER OF (I) FIVE PERCENT OF ONE HALF OF THE CREDIT CAP SET FORTH IN
10 SUBDIVISION (J) OF THIS SECTION FOR THE CALENDAR YEAR, OR (II) THE
11 AGGREGATE OF THE AMOUNTS LISTED ON THE TAXPAYER'S APPLICATIONS SUBMITTED
12 IN ACCORDANCE WITH SUBDIVISION (F) OF THIS SECTION.

13 3. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION
14 AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS
15 ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTIONS LISTED IN
16 THE CERTIFICATE MUST BE MADE, WHICH SHALL BE SIXTY DAYS FROM THE DATE OF
17 THE ISSUANCE OF CREDIT AUTHORIZATION CERTIFICATE, (III) THE FIRST TAXA-
18 BLE YEAR FOR WHICH CREDIT MAY BE CLAIMED BY THE TAXPAYER, (IV) THE TOTAL
19 AMOUNT OF AUTHORIZED CONTRIBUTIONS, (V) THE NAME AND ADDRESS OF THE
20 EDUCATIONAL SCHOLARSHIP ORGANIZATION, PUBLIC EDUCATION ENTITY OR LOCAL
21 EDUCATION FUND TO WHICH THE TAXPAYER MAY MAKE AN AUTHORIZED CONTRIBUTION
22 AND THE AMOUNT OF SUCH AUTHORIZED CONTRIBUTION, AND (VI) ANY OTHER
23 INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY. ISSUED CREDIT AUTHOR-
24 IZATION CERTIFICATES SHALL BE MAILED TO THE APPROPRIATE TAXPAYERS WITHIN
25 THREE BUSINESS DAYS OF THEIR ISSUANCE.

26 4. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
27 CERTIFICATE. WITHIN FIFTEEN DAYS OF THE ISSUANCE OF A CONTRIBUTION
28 AUTHORIZATION CERTIFICATE, THE COMMISSIONER SHALL NOTIFY THE EDUCATIONAL
29 SCHOLARSHIP ORGANIZATION, PUBLIC EDUCATION ENTITY, OR LOCAL EDUCATION
30 FUND OF THE ISSUANCE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATE TO
31 THE TAXPAYER. SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME
32 AND ADDRESS, (II) THE DATE SUCH CERTIFICATE WAS ISSUED, (III) THE DATE
33 BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE
34 CONTRIBUTED, (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION, AND (V) ANY
35 OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

36 5. DISCLOSURE OF CREDIT AVAILABLE. THE COMMISSIONER SHALL MAINTAIN ON
37 THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE AMOUNT OF CREDITS FOR
38 WHICH TAXPAYERS MAY MAKE APPLICATION FOR CONTRIBUTION AUTHORIZATION
39 CERTIFICATION. SUCH RUNNING TOTAL SHALL BE UPDATED ON A DAILY BASIS.

40 (H) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY,
41 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL
42 ISSUE A CERTIFICATE OF RECEIPT FOR ANY CONTRIBUTION MADE BY A TAXPAYER
43 UNLESS SUCH PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCA-
44 TIONAL SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES
45 OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO
46 PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
47 SHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR A CONTRIB-
48 UTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, LOCAL
49 EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED
50 NOTICE FROM THE DEPARTMENT THAT THE DEPARTMENT ISSUED A CREDIT AUTHORI-
51 ZATION CERTIFICATE TO THE TAXPAYER FOR SUCH CONTRIBUTION.

52 2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES A CONTRIBUTION TO THE
53 PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
54 SHIP ORGANIZATION SET FORTH ON THE CREDIT AUTHORIZATION CERTIFICATE
55 ISSUED TO THE TAXPAYER BY THE DEPARTMENT PRIOR TO THE DATE BY WHICH SUCH
56 AUTHORIZED CONTRIBUTION SHALL BE MADE, SUCH PUBLIC EDUCATION ENTITY,

1 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL,
2 WITHIN THIRTY DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO
3 THE TAXPAYER A WRITTEN CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT
4 THE AMOUNT OF THE QUALIFIED CONTRIBUTION LISTED ON SUCH CERTIFICATE OF
5 RECEIPT SHALL NOT EXCEED THE LESSER OF THE AUTHORIZED CONTRIBUTION
6 AMOUNT OR THE AMOUNT OF THE CONTRIBUTION; AND PROVIDED, FURTHER, THAT IF
7 THE TAXPAYER HAS BEEN ISSUED MORE THAN ONE CREDIT AUTHORIZATION CERTIF-
8 ICATE FOR SUCH CONTRIBUTIONS, THE AMOUNT OF THE QUALIFIED CONTRIBUTION
9 LISTED ON SUCH CERTIFICATE OF RECEIPT SHALL NOT EXCEED THE LESSER OF THE
10 AGGREGATE OF THE AMOUNT OF THE AUTHORIZED CONTRIBUTIONS OR THE AMOUNT OF
11 CONTRIBUTIONS.

12 3. UNTIMELY CONTRIBUTION. IF A TAXPAYER FAILS TO MAKE A CONTRIBUTION
13 TO THE PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL
14 SCHOLARSHIP ORGANIZATION LISTED IN THE AUTHORIZED CONTRIBUTION CERTIF-
15 ICATE ISSUED TO THE TAXPAYER IN AN AMOUNT EQUAL TO THE AUTHORIZED
16 CONTRIBUTION AMOUNT LISTED IN SUCH CERTIFICATE PRIOR TO THE DATE BY
17 WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO BE MADE, THE TAXPAYER
18 SHALL NOT BE ENTITLED TO A CERTIFICATE OF RECEIPT.

19 4. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL
20 STATE (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY,
21 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, (II) THE
22 TAXPAYER'S NAME AND ADDRESS, (III) THE DATE FOR EACH QUALIFIED CONTRIB-
23 UTION, (IV) THE AMOUNT OF EACH QUALIFIED CONTRIBUTION, (V) THE TOTAL
24 QUALIFIED CONTRIBUTION AMOUNT, AND (VI) ANY OTHER INFORMATION THAT THE
25 COMMISSIONER MAY DEEM NECESSARY.

26 5. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF
27 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING
28 PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
29 SHIP ORGANIZATION SHALL, WITHIN THIRTY DAYS OF ISSUING THE CERTIFICATE
30 OF RECEIPT, PROVIDE THE DEPARTMENT WITH NOTIFICATION OF THE ISSUANCE OF
31 SUCH CERTIFICATE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT,
32 PROVIDED THAT SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME
33 AND ADDRESS, (II) THE DATE OF THE ISSUANCE OF A CERTIFICATE OF RECEIPT,
34 (III) THE QUALIFIED CONTRIBUTION DATE OR DATES AND THE AMOUNTS CONTRIB-
35 UTED ON SUCH DATES, (IV) THE TOTAL QUALIFIED CONTRIBUTION LISTED ON SUCH
36 CERTIFICATE, (V) THE ISSUING PUBLIC EDUCATION ENTITY, LOCAL EDUCATION
37 FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION'S NAME AND ADDRESS, AND
38 (VI) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

39 6. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE
40 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR
41 EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT RECEIVED NOTIFICATION FROM THE
42 DEPARTMENT PURSUANT TO SUBDIVISION (G) OF THIS SECTION REGARDING THE
43 ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE TO A TAXPAYER
44 SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION DATE FOR SUCH AUTHORIZED
45 CONTRIBUTION, PROVIDE NOTIFICATION TO THE DEPARTMENT FOR EACH TAXPAYER
46 THAT FAILED, IN WHOLE OR IN PART, TO MAKE THE AUTHORIZED CONTRIBUTION TO
47 SUCH PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHO-
48 LARSHIP ORGANIZATION IN THE FORM AND MANNER PRESCRIBED BY THE DEPART-
49 MENT; PROVIDED THAT SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S
50 NAME AND ADDRESS, (II) THE DATE THAT THE CONTRIBUTION AUTHORIZATION
51 CERTIFICATE WAS ISSUED, (III) THE AUTHORIZED CONTRIBUTION AMOUNT SET
52 FORTH ON SUCH CERTIFICATE, (IV) THE AMOUNT OF ANY QUALIFIED CONTRIBUTION
53 MADE BY THE TAXPAYER, (V) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION FOR
54 WHICH THE TAXPAYER DID NOT MAKE A CONTRIBUTION, (VI) THE PUBLIC EDUCA-
55 TION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-

1 TION'S NAME AND ADDRESS, AND (VII) ANY OTHER INFORMATION THAT THE
2 COMMISSIONER MAY DEEM NECESSARY.

3 7. ANY AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-
4 ISSUANCE OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP
5 PRESCRIBED IN SUBDIVISION (J) OF THIS SECTION FOR THE IMMEDIATELY
6 FOLLOWING YEAR.

7 (I) CREDIT LIMITATION. THE MAXIMUM AMOUNT OF CREDIT THAT A TAXPAYER
8 MAY CLAIM FOR A TAXABLE YEAR SHALL NOT EXCEED THE LESSER OF (I) SEVEN-
9 TY-FIVE PERCENT OF THE TAXPAYER'S TAX DUE FOR THE TAXABLE YEAR, AFTER
10 APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY THE TAXPAYER, (II) FIVE
11 PERCENT OF ONE HALF OF THE CREDIT CAP SET FORTH IN SUBDIVISION (J) OF
12 THIS SECTION FOR THE CALENDAR YEAR, OR (III) THE AGGREGATE AMOUNT OF THE
13 TAXPAYER'S AUTHORIZED CONTRIBUTIONS THAT ARE LISTED ON THE CONTRIBUTION
14 AUTHORIZATION CERTIFICATES ISSUED TO THE TAXPAYER FOR THE TAXABLE YEAR
15 PLUS ANY AMOUNT OF CREDIT CARRIED FROM A PRECEDING TAXABLE YEAR. ANY
16 CREDIT IN EXCESS OF THIS LIMITATION MAY BE CARRIED OVER TO THE FOLLOWING
17 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
18 OR YEARS.

19 (J) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION
20 AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS TO PUBLIC EDUCA-
21 TION ENTITIES, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGAN-
22 IZATIONS FOR CALENDAR YEAR TWO THOUSAND FOURTEEN SHALL BE TWO HUNDRED
23 FIFTY MILLION DOLLARS. IN CALENDAR YEAR TWO THOUSAND FIFTEEN AND THERE-
24 AFTER, THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION AVAILABLE TO ALL
25 TAXPAYERS SHALL BE THREE HUNDRED MILLION, PLUS ANY AMOUNTS THAT ARE
26 REQUIRED TO BE ADDED TO THE CAP PURSUANT TO THIS SUBDIVISION. THE MAXI-
27 MUM PERMITTED CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS
28 SHALL BE ALLOCATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES AND LOCAL
29 EDUCATION FUNDS AND FIFTY PERCENT TO EDUCATIONAL SCHOLARSHIP ORGANIZA-
30 TIONS.

31 (K) OTHER REQUIREMENTS; MISCELLANEOUS. 1. RECORD KEEPING. EACH TAXPAY-
32 ER SHALL, FOR EACH TAXABLE YEAR FOR WHICH THE EDUCATION INVESTMENT TAX
33 CREDIT PROVIDED FOR UNDER THIS SECTION IS CLAIMED, MAINTAIN RECORDS OF
34 THE FOLLOWING INFORMATION: (I) CONTRIBUTION AUTHORIZATION CERTIFICATES
35 OBTAINED PURSUANT TO SUBDIVISION (G) OF THIS SECTION, AND (II) CERTIF-
36 ICATES OF RECEIPT OBTAINED PURSUANT TO SUBDIVISION (H) OF THIS SECTION.

37 2. REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE
38 AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMEN-
39 TATION OF THIS SECTION. SUCH REGULATIONS SHALL CONSTRUCT THE PROVISIONS
40 OF THIS SECTION IN SUCH A MANNER AS TO ENCOURAGE QUALIFIED CONTRIB-
41 UTIONS, PROVIDED THAT SUCH REGULATIONS SHALL NOT IMPOSE ANY NEW REQUIRE-
42 MENT OR BURDEN ON THE EDUCATIONAL PROGRAM, INSTRUCTION, OR ACTIVITIES OF
43 A PUBLIC OR NON-PUBLIC SCHOOL.

44 (L) REPORTS. 1. REPORTS TO THE COMMISSIONER. ON OR BEFORE THE LAST DAY
45 OF FEBRUARY FOR EACH CALENDAR YEAR, EACH PUBLIC EDUCATION ENTITY, LOCAL
46 EDUCATION FUND, AND EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT ISSUED ONE
47 OR MORE CERTIFICATES OF RECEIPT SHALL REPORT TO THE COMMISSIONER THE
48 NUMBER OF SUCH CERTIFICATES ISSUED AND THE AGGREGATE AMOUNT OF QUALIFIED
49 CONTRIBUTIONS MADE TO SUCH ENTITY, FUND, OR ORGANIZATION DURING THE
50 IMMEDIATELY PRECEDING CALENDAR YEAR.

51 2. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
52 CALENDAR YEAR, FOR THE IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND
53 THE COMMISSIONER OF EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO
54 THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
55 ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN
56 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE EDUCATION INVEST-

1 MENT TAX CREDIT. SUCH REPORT SHALL CONTAIN STATISTICAL INFORMATION, BY
2 TAX TYPE, REGARDING THE NUMBER OF APPLICATIONS RECEIVED, THE NUMBER OF
3 CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO
4 PUBLIC EDUCATION ENTITIES AND QUALIFIED LOCAL EDUCATION FUNDS, THE
5 NUMBER OF CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR AUTHORIZED
6 CONTRIBUTIONS TO QUALIFIED SCHOLARSHIP ORGANIZATIONS, THE AGGREGATE
7 AMOUNT OF AUTHORIZED CONTRIBUTIONS FOR PUBLIC EDUCATION ENTITIES AND
8 QUALIFIED LOCAL EDUCATION FUNDS, THE AGGREGATE AMOUNT OF AUTHORIZED
9 CONTRIBUTIONS FOR EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, THE GEOGRAPH-
10 ICAL DISTRIBUTION BY COUNTY OF THE APPLICATIONS FOR CONTRIBUTION AUTHOR-
11 IZATION CERTIFICATES, THE GEOGRAPHICAL DISTRIBUTION BY COUNTY OF PUBLIC
12 EDUCATION ENTITIES, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP
13 ORGANIZATIONS FOR WHICH CONTRIBUTION AUTHORIZATION CERTIFICATES WERE
14 ISSUED; INFORMATION, INCLUDING GEOGRAPHICAL DISTRIBUTION BY COUNTY, OF
15 THE NUMBER OF ELIGIBLE PUPILS THAT RECEIVED SCHOLARSHIPS, THE NUMBER OF
16 QUALIFIED SCHOOLS ATTENDED BY ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOL-
17 ARSHIPS, AND THE AVERAGE VALUE OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE
18 PUPILS. THE COMMISSIONER AND DESIGNATED EMPLOYEES OF THE DEPARTMENT, THE
19 BOARD OF REGENTS AND ALL MEMBERS OF THE BOARD OF REGENTS, INCLUDING THE
20 COMMISSIONER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE DEPARTMENT OF
21 EDUCATION, SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE
22 INFORMATION REGARDING THE CREDITS APPLIED FOR, ALLOWED OR CLAIMED PURSU-
23 ANT TO THIS SECTION; THE TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO
24 ARE CLAIMING CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM
25 CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT; AND THE PUBLIC EDUCATION
26 ENTITIES, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZA-
27 TIONS THAT APPLIED FOR APPROVAL TO BE AUTHORIZED TO RECEIVE QUALIFIED
28 CONTRIBUTIONS AND WHO WERE APPROVED TO BE AUTHORIZED TO ISSUE CERTIF-
29 ICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM
30 APPLICATION FORMS SUBMITTED TO THE DEPARTMENT OF EDUCATION OR BOARD OF
31 REGENTS.

32 (M) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
33 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

34 (1) ARTICLE 9-14: SECTION 210; SUBDIVISION 47;

35 (2) ARTICLE 22: SECTION 606; SUBSECTIONS (I) AND (W); AND SECTION 615;
36 SUBSECTION (G);

37 (3) ARTICLE 32: SECTION 1456; SUBSECTION (AA);

38 (4) ARTICLE 33: SECTION 1511; SUBDIVISION (DD).

39 S 4. Paragraph (b) of subdivision 9 of section 208 of the tax law is
40 amended by adding a new subparagraph 21 to read as follows:

41 (21) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
42 HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED
43 PURSUANT TO SUBDIVISION FORTY-SEVEN OF SECTION TWO HUNDRED TEN OF THIS
44 CHAPTER.

45 S 5. Section 210 of the tax law is amended by adding a new subdivision
46 47 to read as follows:

47 47. EDUCATION INVESTMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A
48 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
49 SECTION THIRTY-NINE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS
50 ARTICLE.

51 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
52 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
53 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) OR (D) OF
54 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
55 ALLOWED UNDER THIS SUBDIVISION FOR QUALIFIED CONTRIBUTIONS FOR ANY TAXA-
56 BLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT

DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvi) to read as follows:

(XXXVI) EDUCATION INVESTMENT	AMOUNT OF CREDIT UNDER SUBDIVISION
TAX CREDIT UNDER SUBSECTION (WW)	FORTY-SEVEN OF SECTION TWO HUNDRED
	TEN OR SUBSECTION (AA) OF SECTION
	FOURTEEN HUNDRED FIFTY-SIX

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

(W) INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT IN THE AMOUNT PAID BY THE TAXPAYER DURING THE TAXABLE YEAR FOR INSTRUCTIONAL MATERIALS AND SUPPLIES WITH RESPECT TO CLASSROOM BASED INSTRUCTION IN A QUALIFIED SCHOOL, OR ONE HUNDRED DOLLARS, WHICHEVER IS LESS; PROVIDED THAT THE TAXPAYER IS A TEACHER, INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL, AS DEFINED IN SECTION THIRTY-NINE OF THIS CHAPTER, FOR AT LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR. FOR PURPOSES OF THIS SUBSECTION, THE TERM "MATERIALS AND SUPPLIES" MEANS AMOUNTS PAID FOR INSTRUCTIONAL MATERIALS OR SUPPLIES THAT ARE DESIGNATED FOR CLASSROOM USE IN ANY QUALIFIED SCHOOL.

S 8. Section 606 of the tax law is amended by adding a new subsection (ww) to read as follows:

(WW) EDUCATION INVESTMENT TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-NINE 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 9. Subsection (g) of section 615 of the tax law is amended by adding a new paragraph 3 to read as follows:

(3) WITH RESPECT TO AN INDIVIDUAL WHO HAS CLAIMED THE EDUCATION INVESTMENT TAX CREDIT FOR QUALIFIED CONTRIBUTIONS PURSUANT TO SUBDIVISION (WW) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE, THE TAXPAYER'S NEW YORK ITEMIZED DEDUCTION SHALL BE REDUCED BY ANY CHARITABLE CONTRIBUTION DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE WITH RESPECT TO SUCH QUALIFIED CONTRIBUTIONS.

S 10. Section 1456 of the tax law is amended by adding a new subsection (aa) to read as follows:

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

(2) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT FOR ANY QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, 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 11. Subsection (b) of section 1453 of the tax law is amended by adding a new paragraph 16 to read as follows:

(16) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED PURSUANT TO SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS ARTICLE.

S 12. Paragraph 2 of subdivision (b) of section 1503 of the tax law is amended by adding a new subparagraph (W) to read as follows:

(W) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED PURSUANT TO SECTION FIFTEEN HUNDRED ELEVEN OF THIS ARTICLE.

S 13. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

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

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, 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 14. 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. ANNUAL REVIEW.

1215. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1216. REPORTING AND RECORDKEEPING.

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 OR SIMILAR PROGRAM OF A PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE PUBLIC SCHOOL, OR PROVIDES A PRE-KINDERGARTEN 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 COUN-

1 SELING; (C) INSTRUCTION OR PROGRAMMING BEFORE OR AFTER PUBLIC SCHOOL
2 HOURS, OR ON WEEKENDS THAT IMPROVES STUDENT ACADEMIC ACHIEVEMENT INCLUD-
3 ING PREPARATION FOR COLLEGE OR A CAREER; OR (D) USE OF SPECIALIZED
4 INSTRUCTIONAL MATERIALS, INSTRUCTORS OR INSTRUCTION NOT PROVIDED BY A
5 PUBLIC SCHOOL.

6 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTI-
7 TY WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
8 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
9 AT LEAST NINETY PERCENT OF THE REVENUE FROM QUALIFIED CONTRIBUTIONS
10 RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR
11 YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME
12 DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS FOR SCHOLAR-
13 SHIPS, (III) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME
14 DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM
15 THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED
16 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (IV) PROVIDES SCHOLAR-
17 SHIPS WITHOUT LIMITING AVAILABILITY TO ONLY ELIGIBLE PUPILS OF ONE QUAL-
18 IFIED SCHOOL, AND (V) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS
19 AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

20 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO (I) IS A RESIDENT OF THIS STATE,
21 (II) IS SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIR-
22 TY-TWO HUNDRED TWO OF THIS CHAPTER OR WHO IS FOUR YEARS OF AGE ON OR
23 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH THEY ARE ENROLLED IN A
24 PRE-KINDERGARTEN PROGRAM, AND (III) ATTENDS OR IS ABOUT TO ATTEND A
25 QUALIFIED SCHOOL.

26 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS
27 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
28 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR
29 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL, OR A PUBLIC SCHOOL
30 DISTRICT LOCATED IN THIS STATE, (III) USES AT LEAST NINETY PERCENT OF
31 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
32 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
33 CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS
34 DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR PUBLIC
35 SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED TO
36 SUPPORT, (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME
37 DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM
38 THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS
39 OR INCOME ARE WITHDRAWN FOR USE, AND (V) IS APPROVED TO RECEIVE AUTHOR-
40 IZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS
41 ARTICLE.

42 7. "NONPUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
43 PROGRAM OR ELEMENTARY, SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL, OTHER
44 THAN A PUBLIC SCHOOL, THAT IS PROVIDING INSTRUCTION TO AN ELIGIBLE PUPIL
45 IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED FOUR OF
46 THIS CHAPTER.

47 8. "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL DISTRICT IN THIS
48 STATE, A PUBLIC SCHOOL IN THIS STATE, OR A SCHOOL IMPROVEMENT ORGANIZA-
49 TION, PROVIDED THAT SUCH PUBLIC SCHOOL DISTRICT, PUBLIC SCHOOL OR SCHOOL
50 IMPROVEMENT ORGANIZATION DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND
51 ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS
52 SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR
53 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN
54 FOR USE FROM OPERATING OR OTHER FUNDS AND IS APPROVED TO RECEIVE AUTHOR-
55 IZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS
56 ARTICLE.

1 9. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
2 THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE NEW YORK CONSTITUTION, BUT
3 SHALL NOT INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF
4 THIS CHAPTER.

5 10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY
6 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCA-
7 TIONAL SCHOLARSHIP ORGANIZATION LISTED IN THE CONTRIBUTION AUTHORIZATION
8 CERTIFICATE ISSUED TO THE TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A
9 CERTIFICATE OF RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION.

10 11. "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER,
11 INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL FOR AT
12 LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR.

13 12. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NONPUBLIC SCHOOL
14 LOCATED IN THIS STATE.

15 13. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
16 AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT
17 NOT TO EXCEED THE TUITION NECESSARY TO ATTEND SUCH SCHOOL; PROVIDED,
18 HOWEVER, IN THE CASE OF AN ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL IN A
19 DISTRICT OF WHICH SUCH PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCA-
20 TIONAL SCHOLARSHIP OR TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION
21 CHARGED BY THE PUBLIC SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR
22 OF SECTION THIRTY-TWO HUNDRED TWO OF THIS CHAPTER, BUT ONLY IF THE
23 SCHOOL DISTRICT OF WHICH SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY
24 FOR SUCH TUITION.

25 14. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
26 THAT (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C)
27 OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES AT
28 LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE
29 LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST
30 ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
31 CONTRIBUTIONS DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC
32 SCHOOL DISTRICTS LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL
33 PROGRAMS, EITHER BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS
34 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCA-
35 TIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS
36 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, (III) DEPOSITS AND
37 HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
38 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S
39 OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME
40 ARE WITHDRAWN FOR USE, AND (IV) IS APPROVED TO RECEIVE AUTHORIZED
41 CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTI-
42 CLE. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-PROFIT
43 ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM,
44 PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A
45 PUBLIC SCHOOL.

46 S 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS
47 AND PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL
48 DISTRICTS SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT FOR QUALI-
49 FIED CONTRIBUTIONS IN ACCORDANCE WITH SECTION THIRTY-NINE OF THE TAX
50 LAW, PROVIDED, THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL
51 NOT BE APPROVED IF EITHER (I) SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL
52 DISTRICT FAILS TO DEPOSIT AND HOLD QUALIFIED CONTRIBUTIONS AND ANY
53 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPA-
54 RATE FROM THE SCHOOL OR SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL
55 SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, OR (II)
56 THE COMMISSIONER HAS NOT REVOKED SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR

1 PUBLIC SCHOOL DISTRICT PURSUANT TO SECTION TWELVE HUNDRED SIXTEEN OF
2 THIS ARTICLE.

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

9 S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.
10 1. SCHOOL IMPROVEMENT ORGANIZATIONS. A SCHOOL IMPROVEMENT ORGANIZATION
11 SHALL SUBMIT AN APPLICATION FOR APPROVAL TO ISSUE CERTIFICATES OF
12 RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED
13 THAT SUCH APPLICATION SHALL INCLUDE (I) SUBMISSION OF DOCUMENTARY
14 EVIDENCE THAT SUCH SCHOOL IMPROVEMENT ORGANIZATION HAS BEEN GRANTED
15 EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF
16 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) CERTIF-
17 ICATION THAT ALL QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
18 QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD IN AN ACCOUNT THAT IS
19 SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED
20 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (III) CERTIFICATION THAT
21 SUCH SCHOOL IMPROVEMENT ORGANIZATION WILL USE AT LEAST NINETY PERCENT OF
22 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
23 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
24 CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING
25 SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS IN THIS
26 STATE IN THE PROVISION OF THEIR EDUCATIONAL PROGRAMS BY MAKING CONTRIB-
27 UTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS, OR
28 PROVIDING EDUCATIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE
29 PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, AND
30 (IV) A LIST OF THE NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING
31 BOARD OF THE SCHOOL IMPROVEMENT ORGANIZATION.

32 2. EDUCATIONAL SCHOLARSHIP ORGANIZATIONS. AN EDUCATIONAL SCHOLARSHIP
33 ORGANIZATION SHALL SUBMIT AN APPLICATION FOR APPROVAL TO ISSUE CERTIF-
34 ICATES OF RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER,
35 PROVIDED THAT SUCH APPLICATION SHALL INCLUDE (I) SUBMISSION OF DOCUMEN-
36 TARY EVIDENCE THAT SUCH EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN
37 GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C)
38 OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) CERTIF-
39 ICATION THAT ALL QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
40 QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD IN AN ACCOUNT THAT IS
41 SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED
42 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (III) CERTIFICATION THAT
43 SUCH ORGANIZATION WILL USE AT LEAST NINETY PERCENT OF ITS ANNUAL REVENUE
44 FROM QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
45 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
46 CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING
47 SUCH MONTHS FOR SCHOLARSHIPS, (IV) CERTIFICATION THAT SUCH ORGANIZATION
48 WILL PROVIDE SCHOLARSHIPS TO ELIGIBLE PUPILS WITHOUT LIMITING AVAILABIL-
49 ITY TO ONLY ELIGIBLE PUPILS OF ONE QUALIFIED SCHOOL, AND (V) A LIST OF
50 THE NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF SUCH
51 EDUCATIONAL SCHOLARSHIP ORGANIZATION.

52 3. LOCAL EDUCATION FUNDS. A LOCAL EDUCATION FUND SHALL SUBMIT AN
53 APPLICATION FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM
54 AND MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED THAT SUCH APPLICA-
55 TION SHALL INCLUDE (I) SUBMISSION OF DOCUMENTARY EVIDENCE THAT SUCH
56 LOCAL EDUCATIONAL FUND HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER

1 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE
2 INTERNAL REVENUE CODE, (II) DOCUMENTATION THAT SUCH LOCAL EDUCATION FUND
3 HAS BEEN ESTABLISHED TO SUPPORT AT LEAST ONE PUBLIC SCHOOL OR PUBLIC
4 SCHOOL DISTRICT, (III) THE NAME OF EACH PUBLIC SCHOOL OR PUBLIC SCHOOL
5 DISTRICT THAT IS EITHER SUPPORTED BY OR WILL BE SUPPORTED BY SUCH LOCAL
6 EDUCATION FUND, (IV) CERTIFICATION THAT SUCH FUND WILL USE AT LEAST
7 NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST
8 MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN
9 MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
10 CONTRIBUTIONS DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS
11 OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTAB-
12 LISHED TO SUPPORT, (V) CERTIFICATION THAT SUCH FUND WILL DEPOSIT AND
13 HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
14 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING
15 OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITH-
16 DRAWN FOR USE, AND (VI) A LIST OF THE NAMES AND ADDRESSES OF ALL MEMBERS
17 OF THE GOVERNING BOARD OF SUCH LOCAL EDUCATION FUND.

18 S 1213. APPLICATION APPROVAL. 1. IN GENERAL. THE BOARD OF REGENTS
19 SHALL REVIEW EACH APPLICATION TO DETERMINE WHETHER THE APPLICANT SHALL
20 BE ENTITLED TO APPROVAL TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO
21 THIS ARTICLE. APPROVAL OR DENIAL OF AN APPLICATION SHALL BE MADE AT THE
22 NEXT SCHEDULED MEETING OF THE BOARD OF REGENTS, PROVIDED, HOWEVER THAT
23 IF IT IS NOT PRACTICABLE FOR THE BOARD TO REVIEW AN APPLICATION THAT IS
24 RECEIVED FEWER THAN THREE DAYS BEFORE A SCHEDULED MEETING, THE BOARD MAY
25 REVIEW SUCH AN APPLICATION AT THE IMMEDIATELY FOLLOWING SCHEDULED MEET-
26 ING.

27 2. NOTIFICATION. APPLICANTS SHALL BE NOTIFIED OF THE BOARD OF REGENTS'
28 DETERMINATION WITHIN THREE BUSINESS DAYS OF THE BOARD'S DETERMINATION.

29 S 1214. ANNUAL REVIEW. 1. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCA-
30 TIONAL SCHOLARSHIP ORGANIZATIONS, AND LOCAL EDUCATION FUNDS. (A) EACH
31 SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION OR
32 LOCAL EDUCATION FUND THAT RECEIVED APPROVAL BY THE BOARD OF REGENTS TO
33 ISSUE CERTIFICATES OF RECEIPT SHALL FILE AN APPLICATION FOR RECERTIF-
34 ICATION BY THE COMMISSIONER ON AN ANNUAL BASIS. SUCH APPLICATION FOR
35 RECERTIFICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE
36 DEPARTMENT AND SHALL INCLUDE: (I) CERTIFICATION FROM THE DIRECTOR OR
37 CHIEF EXECUTIVE OFFICER OF THE ORGANIZATION OR ENTITY THAT SUCH ORGAN-
38 IZATION OR ENTITY HAS COMPLIED WITH THE APPLICABLE REPORTING REQUIRE-
39 MENTS OF SECTION TWELVE HUNDRED SIXTEEN OF THIS ARTICLE AND SUBDIVISION
40 (L) OF SECTION THIRTY-NINE OF THE TAX LAW, (II) A COPY OF THE ORGANIZA-
41 TION OR FUND'S FEDERAL FORM 990 OR OTHER FEDERAL FORM INDICATING TAX
42 STATUS OF THE ORGANIZATION OR FUND FOR FEDERAL TAX PURPOSES, (III)
43 CERTIFICATION THAT SUCH ORGANIZATION OR FUND USED AT LEAST NINETY
44 PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF
45 THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF
46 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS
47 DURING SUCH MONTHS TO, IN THE CASE OF A SCHOOL IMPROVEMENT ORGANIZATION,
48 ASSIST IN THE PROVISION OF EDUCATIONAL PROGRAMS IN AT LEAST ONE PUBLIC
49 SCHOOL OR PUBLIC SCHOOL DISTRICT, OR IN THE CASE OF AN EDUCATIONAL SCHOLARSHIP ORGANIZATION, PROVIDE SCHOLARSHIPS TO ELIGIBLE STUDENTS, OR IN
50 THE CASE OF A LOCAL EDUCATION FUND, SUPPORT AT LEAST ONE PUBLIC SCHOOL
51 OR PUBLIC SCHOOL DISTRICT, (IV) CERTIFICATION THAT SUCH ORGANIZATION OR
52 FUND DEPOSITED AND HELD ALL QUALIFIED CONTRIBUTIONS AND ANY INCOME
53 DERIVED FROM QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD IN AN
54 ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION OR FUND'S OPERATING OR
55 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN
56

FOR USE, AND (V) A COPY OF THE ORGANIZATION'S CURRENT FINANCIAL STATEMENTS.

(B) A SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP FUND OR LOCAL EDUCATION FUND, WITHIN THIRTY DAYS OF RECEIPT BY THE DEPARTMENT OF AN APPLICATION FOR RECERTIFICATION BY SUCH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP FUND OR LOCAL EDUCATION FUND, SHALL BE DEEMED RECERTIFIED BY THE COMMISSIONER TO ISSUE CERTIFICATES OF RECEIPT UNLESS THE COMMISSIONER MAKES A DETERMINATION IN WRITING THAT THE APPLICATION FAILS TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION.

2. PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS. (A) EACH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL FILE AN ANNUAL CERTIFICATION WITH THE COMMISSIONER IN THE FORM AND MANNER PRESCRIBED BY THE BOARD. SUCH ANNUAL CERTIFICATION SHALL INCLUDE (I) CERTIFICATION THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT HAS COMPLIED WITH THE APPLICABLE REPORTING REQUIREMENTS OF SECTION TWELVE HUNDRED SIXTEEN OF THIS ARTICLE AND SUBDIVISION (L) OF SECTION THIRTY-NINE OF THE TAX LAW, AND (II) CERTIFICATION THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE.

(B) A PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT, WITHIN THIRTY DAYS OF RECEIPT BY THE DEPARTMENT OF AN APPLICATION FOR RECERTIFICATION BY SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT, SHALL BE DEEMED RECERTIFIED BY THE COMMISSIONER TO ISSUE CERTIFICATES OF RECEIPT UNLESS THE COMMISSIONER MAKES A DETERMINATION IN WRITING THAT THE APPLICATION FAILS TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION.

S 1215. 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, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS VIOLATED THIS ARTICLE OR SECTION THIRTY-NINE OF THE TAX LAW. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING:

(1) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE, (2) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (3) THE FAILURE TO SUPPLY SUCH RECORDS TO THE DEPARTMENT OR THE BOARD OF REGENTS, OR (4) THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE OF THE ISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION THIRTY-NINE OF THE TAX LAW. WITHIN FIVE DAYS OF THE DETERMINATION REVOKING APPROVAL, THE COMMISSIONER SHALL PROVIDE NOTICE OF SUCH REVOCATION TO THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT.

S 1216. REPORTING AND RECORDKEEPING. 1. REPORTING. (A) EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS.

(I) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT RECEIVES QUALIFIED CONTRIBUTIONS SHALL REPORT TO THE BOARD OF REGENTS, ON A FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE NAME AND ADDRESS OF THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING BOARD OF THE ORGANIZATION, (B) THE TOTAL NUMBER OF CERTIFICATES OF RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE TOTAL DOLLAR AMOUNT OF QUALIFIED CONTRIBUTIONS RECEIVED, AS SET FORTH IN CERTIFICATES OF RECEIPT ISSUED DURING

1 THE IMMEDIATELY PRECEDING CALENDAR YEAR, (D) THE TOTAL NUMBER OF ELIGI-
2 BLE PUPILS UTILIZING SCHOLARSHIPS FOR THE IMMEDIATELY PRECEDING CALENDAR
3 YEAR AND THE SCHOOL YEAR IN PROGRESS AND THE TOTAL DOLLAR VALUE OF THE
4 SCHOLARSHIPS, (E) THE NAME AND ADDRESS OF EACH QUALIFIED SCHOOL AT WHICH
5 SCHOLARSHIPS ARE CURRENTLY BEING UTILIZED, DETAILING THE NUMBER OF
6 ELIGIBLE PUPILS AND THE TOTAL DOLLAR VALUE OF SCHOLARSHIPS BEING
7 UTILIZED AT EACH QUALIFIED SCHOOL, AND (F) ANY ADDITIONAL RELATED INFOR-
8 MATION REQUESTED BY THE COMMISSIONER.

9 (II) A SCHOOL IMPROVEMENT ORGANIZATION THAT RECEIVES QUALIFIED
10 CONTRIBUTIONS SHALL REPORT TO THE DEPARTMENT OR BOARD OF REGENTS, ON A
11 FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH
12 CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE NAME AND ADDRESS OF
13 THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING BOARD OF THE ORGANIZA-
14 TION, (B) THE TOTAL NUMBER OF CERTIFICATES OF RECEIPT ISSUED DURING THE
15 IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE TOTAL DOLLAR AMOUNT OF
16 QUALIFIED CONTRIBUTIONS RECEIVED, AS SET FORTH IN THE CERTIFICATES OF
17 RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (D) A
18 LIST OF THE EDUCATIONAL PROGRAMS THAT WERE PROVIDED TO PUBLIC SCHOOLS OR
19 PUBLIC SCHOOL DISTRICTS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
20 THROUGH QUALIFIED CONTRIBUTIONS, INCLUDING THE GEOGRAPHIC LOCATION OF
21 SUCH PROGRAMS BY COUNTY, AND (E) ANY ADDITIONAL RELATED INFORMATION
22 REQUESTED BY THE COMMISSIONER.

23 (III) A LOCAL EDUCATION FUND THAT RECEIVES QUALIFIED CONTRIBUTIONS
24 PURSUANT TO THIS ARTICLE SHALL REPORT TO THE DEPARTMENT OR THE BOARD OF
25 REGENTS, ON A FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY
26 THIRTY-FIRST OF EACH CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE
27 NAME AND ADDRESS OF THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING
28 BOARD OF THE ORGANIZATION, (B) THE TOTAL NUMBER OF CERTIFICATES OF
29 RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE
30 TOTAL DOLLAR AMOUNT OF QUALIFIED CONTRIBUTIONS RECEIVED AS SET FORTH IN
31 THE CERTIFICATES OF RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING
32 CALENDAR YEAR, (D) THE NAME AND ADDRESS OF THE PUBLIC SCHOOLS OR PUBLIC
33 SCHOOL DISTRICTS THAT THE LOCAL EDUCATION FUND SUPPORTED DURING THE
34 IMMEDIATELY PRECEDING CALENDAR YEAR, AND (E) ANY ADDITIONAL RELATED
35 INFORMATION REQUESTED BY THE COMMISSIONER.

36 (IV) A PUBLIC SCHOOL DISTRICT OR PUBLIC SCHOOL THAT RECEIVES QUALIFIED
37 CONTRIBUTIONS SHALL REPORT TO THE COMMISSIONER OR BOARD OF REGENTS, ON A
38 FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH
39 CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE TOTAL NUMBER OF
40 CERTIFICATES OF RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR
41 YEAR, (B) THE TOTAL DOLLAR AMOUNT OF QUALIFIED CONTRIBUTIONS RECEIVED AS
42 SET FORTH IN THE CERTIFICATES OF RECEIPT ISSUED DURING THE PREVIOUS
43 CALENDAR YEAR, AND (C) ANY ADDITIONAL RELATED INFORMATION REQUESTED BY
44 THE COMMISSIONER.

45 (B) JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
46 CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMIS-
47 SIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN PARAGRAPH
48 TWO OF SUBDIVISION (1) OF SECTION THIRTY-NINE OF THE TAX LAW.

49 2. RECORDKEEPING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL
50 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC
51 SCHOOL DISTRICT THAT IS AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT
52 SHALL MAINTAIN FULL AND ADEQUATE RECORDS OF THE FOLLOWING INFORMATION:

53 (A) CREDIT AUTHORIZATION CERTIFICATES RECEIVED IN ACCORDANCE WITH
54 SECTION THIRTY-NINE OF THE TAX LAW, (B) THE CERTIFICATES OF RECEIPT
55 ISSUED TO TAXPAYERS IN ACCORDANCE WITH SECTION THIRTY-NINE OF THE TAX

1 LAW, AND (C) ANY INFORMATION AS THE COMMISSIONER OR THE BOARD OF REGENTS
2 MAY PRESCRIBE.

3 S 1217. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN
4 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS
5 SECTION. SUCH REGULATIONS SHALL CONSTRUER THE PROVISIONS OF THIS SECTION
6 IN SUCH A MANNER AS TO ENCOURAGE QUALIFIED CONTRIBUTIONS; PROVIDED,
7 HOWEVER, THAT SUCH REGULATIONS SHALL NOT IMPOSE ANY NEW REQUIREMENT OR
8 BURDEN ON THE EDUCATIONAL PROGRAM, INSTRUCTION OR ACTIVITIES OF A PUBLIC
9 OR NON-PUBLIC SCHOOL; AND PROVIDED, FURTHER, THAT THE COMMISSIONER SHALL
10 MAKE ANY APPLICATION REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE
11 AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
12 ARTICLE.

13 S 15. The education law is amended by adding a new section 1503-a to
14 read as follows:

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

19 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY OTHER
20 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE RECEIPT OF SUCH GIFTS,
21 DONATIONS, CONTRIBUTIONS AND OTHER FUNDS, AND ANY INCOME DERIVED THERE-
22 FROM, SHALL BE DISREGARDED FOR THE PURPOSES OF ALL APPORTIONMENTS,
23 COMPUTATIONS, AND DETERMINATIONS OF STATE AID.

24 S 16. This act shall not be construed to authorize the commissioner of
25 education or the commissioner of taxation and finance to impose any
26 regulation or requirement on the educational program, instruction or
27 activities of a public education entity that receives charitable
28 contributions pursuant to this act, or a non-public school with an
29 eligible pupil who receives funding from an educational scholarship
30 organization pursuant to this act, unless specifically authorized by
31 this act.

32 S 17. Severability. If any provision of this section or the applica-
33 tion thereof to any person or circumstances is held invalid, such inva-
34 lidity shall not affect other provisions or applications of the section
35 which can be given effect without the invalid provision or application,
36 and to this end the provisions of this section are declared to be sever-
37 able.

38 S 18. This act shall take effect immediately and shall apply to taxa-
39 ble years beginning after December 31, 2013.