

2551--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 16, 2015

Introduced by M. of A. CUSICK, CRESPO, SIMANOWITZ, THIELE, MARKEY, MALLIOTAKIS, GOLDFEDER, BENEDETTO, KEARNS, HEVESI, PERRY, CURRAN, WEPRIN, ROZIC, RODRIGUEZ, DenDEKKER, GJONAJ, MILLER, SKARTADOS, SALADINO, FITZPATRICK, ARROYO, TITONE, HIKIND, McDONALD, BRABENEC, GIGLIO, OTIS, FINCH, WOZNIAK, GANTT, LAWRENCE, MOYA -- Multi-Sponsored by -- M. of A. BLANKENBUSH, BRAUNSTEIN, COLTON, COOK, CORWIN, CYMBROWITZ, DAVILA, GARBARINO, GOODELL, GRAF, HAWLEY, KATZ, KOLB, LALOR, LENTOL, LOPEZ, McLAUGHLIN, MONTESANO, NOJAY, OAKS, ORTIZ, PALMESANO, PALUMBO, PEOPLES-STOKES, PICHARDO, PRETLOW, RA, SCHIMMINGER, SIMOTAS, SOLAGES, STEC, TENNEY, TITUS, WEINSTEIN -- read once and referred 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

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

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "education investment incentives act".  
3 S 2. 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-  
10 sion of financial resources, charitable giving for educational purposes  
11 should be encouraged;

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

LBD07511-02-6

1 c. Permitting public education entities such as school districts and  
2 individual public schools to accept and receive voluntary cash contribu-  
3 tions will be beneficial to students, taxpayers and educators;

4 d. Encouraging voluntary support for education, without prejudice for  
5 or against any state-sanctioned educational enterprise, promotes the  
6 state's interest in providing the highest quality education to all chil-  
7 dren in the state;

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

10 f. The intended beneficiaries of the tax credits provided in this act  
11 are the students who attend public schools, students who further their  
12 education using tuition scholarships from educational scholarship organ-  
13 izations, and teachers who purchase with personal funds to supply their  
14 students and classrooms, and who seek charitable donations for classroom  
15 projects and initiatives;

16 g. Permitting educators to claim a credit for the purchase of class-  
17 room instructional materials and supplies will insure a wider availabil-  
18 ity of such materials and supplies for all students.

19 S 3. The tax law is amended by adding a new section 42 to read as  
20 follows:

21 S 42. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. FOR THE  
22 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING  
23 MEANINGS:

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

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

30 3. "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC PROGRAM OF A PUBLIC SCHOOL  
31 THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE PUBLIC SCHOOL,  
32 OR PROVIDES A PRE-KINDERGARTEN PROGRAM OR AN AFTER SCHOOL PROGRAM TO THE  
33 PUBLIC SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERI-  
34 ALS, PROGRAMS AND OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL  
35 PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (I)  
36 INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMI-  
37 LY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATH-  
38 EMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (II)  
39 INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK  
40 STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUN-  
41 SELING; OR (III) THE USE OF SPECIALIZED INSTRUCTIONAL MATERIALS,  
42 INSTRUCTORS OR INSTRUCTION NOT PROVIDED BY A PUBLIC SCHOOL.

43 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS AN ENTITY THAT (I) IS  
44 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION  
45 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) COMMITS FOR THE  
46 EXPENDITURE OF AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS  
47 RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUAL-  
48 IFIED CONTRIBUTIONS FOR SCHOLARSHIPS, (III) PROVIDES MORE THAN FIFTY  
49 PERCENT OF ITS SCHOLARSHIPS DURING A CALENDAR YEAR TO ELIGIBLE PUPILS  
50 WHO RESIDE IN A HOUSEHOLD THAT HAS AN INCOME NOT TO EXCEED ONE HUNDRED  
51 FIFTY PERCENT OF THE INCOME QUALIFICATION REQUIRED FOR THE REDUCED PRICE  
52 SCHOOL LUNCHEES UNDER THE NATIONAL SCHOOL LUNCH ACT, PROVIDED HOWEVER,  
53 FOR THE PURPOSES OF AN EDUCATIONAL SCHOLARSHIP ORGANIZATION FULFILLING  
54 SUCH REQUIREMENT, AN EDUCATIONAL SCHOLARSHIP ORGANIZATION MAY ENTER INTO  
55 AN AGREEMENT WITH ANOTHER EDUCATIONAL SCHOLARSHIP ORGANIZATION OR ORGAN-  
56 IZATIONS TO JOINTLY REPORT THEIR SCHOLARSHIP INFORMATION TO MEET SUCH

1 REQUIREMENT, (IV) PROVIDES SCHOLARSHIPS TO ELIGIBLE PUPILS FOR USE AT  
2 NOT FEWER THAN THREE NON-PUBLIC SCHOOLS, (V) DEPOSITS AND HOLDS QUALI-  
3 FIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS  
4 IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR  
5 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN  
6 FOR USE, AND (VI) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND  
7 ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE  
8 EDUCATION LAW.

9 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO (I) IS A RESIDENT, (II) IS OF  
10 SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIRTY-TWO  
11 HUNDRED TWO OF THE EDUCATION LAW OR WHO IS FOUR YEARS OF AGE ON OR  
12 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH SUCH CHILD IS ENROLLED IN A  
13 PRE-KINDERGARTEN PROGRAM, (III) ATTENDS OR IS ABOUT TO ATTEND A QUALI-  
14 FIED SCHOOL, AND (IV) RESIDES IN A HOUSEHOLD THAT HAS A FEDERAL ADJUSTED  
15 GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS, PROVIDED  
16 HOWEVER, FOR HOUSEHOLDS WITH THREE OR MORE DEPENDENT CHILDREN, SUCH  
17 INCOME LEVEL SHALL BE INCREASED BY TEN THOUSAND DOLLARS PER DEPENDENT  
18 CHILD IN EXCESS OF TWO CHILDREN, NOT TO EXCEED THREE HUNDRED THOUSAND  
19 DOLLARS.

20 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS  
21 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION  
22 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR  
23 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL OR A PUBLIC SCHOOL  
24 DISTRICT, (III) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIB-  
25 UTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME DERIVED FROM  
26 SUCH QUALIFIED CONTRIBUTIONS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR  
27 PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED  
28 TO SUPPORT, (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY  
29 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPA-  
30 RATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED  
31 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND (V) IS APPROVED TO  
32 RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT  
33 PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

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

39 8. "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL OR A PUBLIC SCHOOL  
40 DISTRICT, PROVIDED THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT (I)  
41 DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM  
42 SUCH QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE  
43 PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL  
44 SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE AND (II) IS  
45 APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE  
46 TWENTY-FIVE OF THE EDUCATION LAW.

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

51 10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY  
52 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-  
53 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR  
54 WHICH THE CONTRIBUTION AUTHORIZATION CERTIFICATE HAS BEEN ISSUED TO THE  
55 TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF RECEIPT  
56 FROM SUCH ENTITY, FUND OR ORGANIZATION. A CONTRIBUTION DOES NOT QUALIFY

1 IF THE TAXPAYER DESIGNATES THE TAXPAYER'S CONTRIBUTION TO AN ENTITY OR  
2 ORGANIZATION FOR THE DIRECT BENEFIT OF ANY PARTICULAR OR SPECIFIED  
3 STUDENT.

4 11. "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER OR  
5 INSTRUCTOR IN A QUALIFIED SCHOOL FOR AT LEAST NINE HUNDRED HOURS DURING  
6 A SCHOOL YEAR.

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

9 13. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP WHICH PROVIDES A  
10 TUITION GRANT AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL  
11 IN AN AMOUNT NOT TO EXCEED THE TUITION CHARGED TO ATTEND SUCH SCHOOL  
12 LESS ANY OTHER EDUCATIONAL SCHOLARSHIP OR TUITION GRANT RECEIVED BY SUCH  
13 ELIGIBLE PUPIL OR HIS OR HER PARENT, PARENTS, LEGAL GUARDIAN, OR LEGAL  
14 GUARDIANS FOR SUCH ELIGIBLE PUPIL'S TUITION; PROVIDED, HOWEVER, IN THE  
15 CASE OF AN ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL IN A DISTRICT OF  
16 WHICH SUCH PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCATIONAL SCHOL-  
17 ARSHIP AWARDED MAY NOT EXCEED THE TUITION CHARGED BY THE PUBLIC SCHOOL  
18 PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR OF SECTION THIRTY-TWO  
19 HUNDRED TWO OF THE EDUCATION LAW, BUT ONLY IF THE SCHOOL DISTRICT OF  
20 WHICH SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY FOR SUCH TUITION.

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

40 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE  
41 NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED AN EDUCATION  
42 INVESTMENT TAX CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS  
43 REFERENCED IN SUBDIVISION (L) OF THIS SECTION, WITH RESPECT TO QUALIFIED  
44 CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.

45 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE SEVENTY-FIVE  
46 PERCENT OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS, CAPPED AT ONE  
47 MILLION DOLLARS. A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP, MEMBER  
48 OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION SHALL  
49 BE ALLOWED TO CLAIM ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PART-  
50 NERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION, PROVIDED THAT SUCH  
51 A TAXPAYER SHALL NOT CLAIM CREDIT IN EXCESS OF THE LIMIT IMPOSED BY THIS  
52 SUBDIVISION.

53 (D) INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEBSITE. THE COMMIS-  
54 SIONER SHALL MAINTAIN ON THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE  
55 AMOUNT OF AVAILABLE CREDIT FOR WHICH TAXPAYERS MAY APPLY PURSUANT TO  
56 THIS SECTION. SUCH RUNNING TOTAL SHALL BE UPDATED ON A DAILY BASIS.

1 ADDITIONALLY, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S  
2 WEBSITE A LIST OF THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION  
3 FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS APPROVED TO ISSUE  
4 CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION  
5 LAW. THE COMMISSIONER SHALL ALSO MAINTAIN ON THE DEPARTMENT'S WEBSITE A  
6 LIST OF PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS,  
7 LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS WHOSE  
8 APPROVAL TO ISSUE CERTIFICATES OF RECEIPT HAS BEEN REVOKED ALONG WITH  
9 THE DATE OF REVOCATION.

10 (E) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO  
11 MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT  
12 ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-  
13 TION, THE TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A CONTRIBUTION  
14 AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. SUCH APPLICATION SHALL  
15 BE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT  
16 MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM,  
17 PROVIDED THAT EACH CONTRIBUTION LISTED ON SUCH APPLICATION SHALL BE  
18 TREATED AS A SEPARATE APPLICATION AND THAT THE DEPARTMENT SHALL ISSUE  
19 SEPARATE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR EACH SUCH APPLICA-  
20 TION.

21 (F) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIF-  
22 ICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIF-  
23 ICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF  
24 JANUARY AND ENDS ON THE THIRTY-FIRST DAY OF JANUARY, THE COMMISSIONER  
25 SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES.  
26 COMMENCING AFTER THE FIFTH DAY OF FEBRUARY, THE COMMISSIONER SHALL ISSUE  
27 CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING  
28 PHASE ONE, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR  
29 WHICH APPLICATIONS HAVE BEEN RECEIVED DURING PHASE ONE EXCEEDS THE  
30 AMOUNT OF THE CREDIT CAP IN SUBDIVISION (H) OF THIS SECTION, THE AUTHOR-  
31 IZED CONTRIBUTION AMOUNT LISTED ON EACH CONTRIBUTION AUTHORIZATION  
32 CERTIFICATE SHALL EQUAL THE PRO-RATA SHARE OF THE CREDIT CAP. IF THE  
33 CREDIT CAP IS NOT EXCEEDED, PHASE TWO COMMENCES ON FEBRUARY FIRST AND  
34 ENDS ON DECEMBER THIRTY-FIRST. THE COMMISSIONER SHALL ISSUE CONTRIBUTION  
35 AUTHORIZATION CERTIFICATES ON A FIRST-COME, FIRST SERVE BASIS BASED UPON  
36 THE DATE THE DEPARTMENT RECEIVED THE TAXPAYER'S APPLICATION FOR SUCH  
37 CERTIFICATE. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS  
38 RECEIVED DURING PHASE ONE SHALL BE MAILED NO LATER THAN THE TWENTIETH  
39 DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICA-  
40 TIONS RECEIVED DURING PHASE TWO SHALL BE MAILED WITHIN TWENTY DAYS OF  
41 RECEIPT OF SUCH APPLICATIONS. PROVIDED HOWEVER, THAT NO CONTRIBUTION  
42 AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO  
43 SHALL BE ISSUED UNTIL ALL OF THE CONTRIBUTION AUTHORIZATION CERTIFICATES  
44 FOR APPLICATIONS RECEIVED DURING PHASE ONE HAVE BEEN ISSUED.

45 2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION  
46 AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS  
47 ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTIONS LISTED IN  
48 THE CERTIFICATE MUST BE MADE, WHICH SHALL BE NO LATER THAN DECEMBER  
49 THIRTY-FIRST OF THE YEAR FOR WHICH THE CONTRIBUTION AUTHORIZATION  
50 CERTIFICATE WAS ISSUED, (III) THE TAXPAYER'S NAME AND ADDRESS, (IV) THE  
51 AMOUNT OF AUTHORIZED CONTRIBUTIONS, (V) THE CONTRIBUTION AUTHORIZATION  
52 CERTIFICATE'S CERTIFICATE NUMBER, (VI) THE NAME AND ADDRESS OF THE  
53 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-  
54 TION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION FOR WHICH THE TAXPAYER  
55 MAY MAKE THE AUTHORIZED CONTRIBUTION, AND (VII) ANY OTHER INFORMATION  
56 THAT THE COMMISSIONER DEEMS NECESSARY.

1 3. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION  
2 CERTIFICATE. UPON ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIFICATE,  
3 THE COMMISSIONER SHALL NOTIFY THE EDUCATIONAL SCHOLARSHIP ORGANIZATION,  
4 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION OR LOCAL EDUCA-  
5 TION FUND OF THE ISSUANCE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATE  
6 TO A TAXPAYER. SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME  
7 AND ADDRESS, (II) THE DATE SUCH CERTIFICATE WAS ISSUED, (III) THE DATE  
8 BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE  
9 MADE BY THE TAXPAYER, (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION,  
10 (V) CONTRIBUTION AUTHORIZATION CERTIFICATE, AND (VI) ANY OTHER INFORMA-  
11 TION THAT THE COMMISSIONER DEEMS NECESSARY.

12 (G) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY,  
13 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL  
14 SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY  
15 CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY,  
16 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL  
17 SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF  
18 RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO PUBLIC  
19 EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND,  
20 OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF  
21 RECEIPT FOR A CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCA-  
22 TION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR  
23 EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE  
24 DEPARTMENT THAT THE DEPARTMENT ISSUED A CREDIT AUTHORIZATION CERTIFICATE  
25 TO THE TAXPAYER FOR SUCH CONTRIBUTION.

26 2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES AN AUTHORIZED CONTRIBUTION  
27 TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL  
28 EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SET FORTH ON THE  
29 AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER NO LATER THAN THE DATE  
30 BY WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO BE MADE, SUCH  
31 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-  
32 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY  
33 DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO THE TAXPAYER A  
34 WRITTEN CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT IF THE TAXPAYER  
35 CONTRIBUTES AN AMOUNT THAT IS LESS THAN THE AMOUNT LISTED ON THE TAXPAY-  
36 ER'S CONTRIBUTION AUTHORIZATION CERTIFICATE, THE TAXPAYER SHALL NOT BE  
37 ISSUED A CERTIFICATE OF RECEIPT FOR SUCH CONTRIBUTION.

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

46 4. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF  
47 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING  
48 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-  
49 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY  
50 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH  
51 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER  
52 PRESCRIBED BY THE DEPARTMENT.

53 5. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE  
54 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-  
55 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT  
56 RECEIVED NOTIFICATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION (D) OF

1 THIS SECTION REGARDING THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION  
2 CERTIFICATE TO A TAXPAYER SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION  
3 DATE FOR SUCH AUTHORIZED CONTRIBUTION, PROVIDE NOTIFICATION TO THE  
4 DEPARTMENT FOR EACH TAXPAYER THAT FAILED TO MAKE THE AUTHORIZED CONTRIB-  
5 UTION TO SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,  
6 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION IN THE  
7 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

8 6. FAILURE TO NOTIFY THE DEPARTMENT. WITHIN THIRTY DAYS OF DISCOVERY  
9 OF THE FAILURE OF ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGAN-  
10 IZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION  
11 TO COMPLY WITH THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS  
12 FOUR AND FIVE OF THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE  
13 OF COMPLIANCE FAILURE TO SUCH ENTITY, PROGRAM FUND OR ORGANIZATION. SUCH  
14 ENTITY, PROGRAM FUND OR ORGANIZATION SHALL HAVE THIRTY DAYS FROM THE  
15 DATE OF SUCH NOTICE TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS  
16 FOUR AND FIVE OF THIS SUBDIVISION. SUCH PERIOD MAY BE EXTENDED FOR AN  
17 ADDITIONAL THIRTY DAYS UPON THE REQUEST OF THE ENTITY, PROGRAM FUND OR  
18 ORGANIZATION. UPON THE EXPIRATION OF THE PERIOD FOR COMPLIANCE SET FORTH  
19 IN THE NOTICE PRESCRIBED BY THIS PARAGRAPH, THE COMMISSIONER SHALL NOTI-  
20 FY THE BOARD OF REGENTS AND THE COMMISSIONER OF EDUCATION THAT SUCH  
21 ENTITY, PROGRAM FUND OR ORGANIZATION FAILED TO MAKE THE NOTIFICATIONS  
22 PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION.

23 (H) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION  
24 AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR CALENDAR YEAR  
25 TWO THOUSAND SEVENTEEN SHALL BE ONE HUNDRED FIFTY MILLION DOLLARS. IN  
26 CALENDAR YEAR TWO THOUSAND EIGHTEEN, THE MAXIMUM PERMITTED CREDITS UNDER  
27 THIS SECTION AVAILABLE TO ALL TAXPAYERS SHALL BE TWO HUNDRED TWENTY-FIVE  
28 MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED TO THE  
29 CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. FOR CALENDAR YEAR TWO  
30 THOUSAND NINETEEN AND EACH CALENDAR YEAR THEREAFTER, THE MAXIMUM PERMIT-  
31 TED CREDITS UNDER THIS SECTION AVAILABLE TO ALL TAXPAYERS SHALL BE THREE  
32 HUNDRED MILLION DOLLARS, PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED  
33 TO THE CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. THE MAXIMUM  
34 PERMITTED CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS SHALL  
35 BE ALLOCATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVE-  
36 MENT ORGANIZATIONS, AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT TO  
37 EDUCATIONAL SCHOLARSHIP ORGANIZATIONS.

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

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

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

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

1 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE CREDIT. SUCH  
2 REPORT SHALL CONTAIN INFORMATION FOR ARTICLES NINE-A AND TWENTY-TWO,  
3 RESPECTIVELY, REGARDING: (I) THE NUMBER OF APPLICATIONS RECEIVED; (II)  
4 THE NUMBER OF AND AGGREGATE VALUE OF THE CONTRIBUTION AUTHORIZATION  
5 CERTIFICATES ISSUED FOR CONTRIBUTIONS TO PUBLIC EDUCATION ENTITIES,  
6 SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND SCHOLARSHIP  
7 ORGANIZATIONS, RESPECTIVELY; (III) THE GEOGRAPHICAL DISTRIBUTION BY  
8 COUNTY OF (A) THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFI-  
9 ICATES, DISTRIBUTION BY COUNTY OF (B) THE PUBLIC EDUCATION ENTITIES,  
10 SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL  
11 SCHOLARSHIP ORGANIZATIONS LISTED ON THE ISSUED CONTRIBUTION AUTHORI-  
12 ZATION CERTIFICATES; AND (IV) INFORMATION, INCLUDING GEOGRAPHICAL  
13 DISTRIBUTION BY COUNTY, OF THE NUMBER OF ELIGIBLE PUPILS THAT RECEIVED  
14 SCHOLARSHIPS, THE NUMBER OF ELIGIBLE PUPILS THAT RESIDE IN A HOUSEHOLD  
15 THAT HAS AN INCOME NOT TO EXCEED ONE HUNDRED FIFTY PERCENT OF THE INCOME  
16 QUALIFICATION REQUIRED FOR THE REDUCED PRICE SCHOOL LUNCHEES UNDER THE  
17 NATIONAL SCHOOL LUNCH ACT, THE NUMBER OF QUALIFIED SCHOOLS ATTENDED BY  
18 ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE AVERAGE VALUE  
19 OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE COMMISSIONER AND  
20 DESIGNATED EMPLOYEES OF THE STATE EDUCATION DEPARTMENT, THE BOARD OF  
21 REGENTS AND ALL MEMBERS OF THE BOARD OF REGENTS, INCLUDING THE COMMIS-  
22 SIONER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE STATE EDUCATION  
23 DEPARTMENT, SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE  
24 INFORMATION REGARDING THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCA-  
25 TION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED FOR  
26 APPROVAL TO BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS; AND THE  
27 PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL  
28 EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AUTHORIZED TO  
29 ISSUE CERTIFICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR  
30 DERIVED FROM APPLICATION FORMS AND REPORTS SUBMITTED TO THE STATE EDUCA-  
31 TION DEPARTMENT OR BOARD OF REGENTS.

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

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

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

36 S 4. Paragraph (b) of subdivision 9 of section 208 of the tax law is  
37 amended by adding a new subparagraph 22 to read as follows:

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

42 S 5. Section 210-B of the tax law is amended by adding a new subdivi-  
43 sion 49 to read as follows:

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

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



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

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

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

9 (W) INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. (1) FOR TAXABLE YEARS  
10 BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER  
11 SHALL BE ALLOWED A CREDIT IN THE AMOUNT PAID BY THE TAXPAYER DURING THE  
12 TAXABLE YEAR FOR INSTRUCTIONAL MATERIALS AND SUPPLIES WITH RESPECT TO  
13 CLASSROOM BASED INSTRUCTION IN A QUALIFIED SCHOOL, OR TWO HUNDRED  
14 DOLLARS, WHICHEVER IS LESS; PROVIDED THAT THE TAXPAYER IS A TEACHER OR  
15 INSTRUCTOR IN A QUALIFIED SCHOOL, AS DEFINED IN SECTION FORTY-TWO OF  
16 THIS CHAPTER, FOR AT LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR. FOR  
17 PURPOSES OF THIS SUBSECTION, THE TERM "MATERIALS AND SUPPLIES" MEANS  
18 AMOUNTS PAID FOR INSTRUCTIONAL MATERIALS OR SUPPLIES THAT ARE DESIGNATED  
19 FOR CLASSROOM USE IN ANY QUALIFIED SCHOOL.

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

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

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

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

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

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

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

43 S 10. The education law is amended by adding a new article 25 to read  
44 as follows:

45 ARTICLE 25

46 EDUCATION INVESTMENT TAX CREDIT PROGRAM

- 47 SECTION 1209. SHORT TITLE.
- 48 1210. DEFINITIONS.
- 49 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.
- 50 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF
- 51 RECEIPT.
- 52 1213. APPLICATION APPROVAL.
- 53 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.
- 54 1215. REPORTING AND RECORDKEEPING.
- 55 1216. JOINT ANNUAL REPORT.
- 56 1217. COMMISSIONER; POWERS.

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

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

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

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

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

23 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTI-  
24 TY WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION  
25 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II)  
26 COMMITS FOR THE EXPENDITURE OF OR DESIGNATES AT LEAST NINETY PERCENT OF  
27 THE REVENUE FROM QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR  
28 YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS FOR SCHOLAR-  
29 SHIPS, (III) PROVIDES MORE THAN FIFTY PERCENT OF ITS SCHOLARSHIPS DURING  
30 A CALENDAR YEAR TO ELIGIBLE PUPILS WHO RESIDE IN A HOUSEHOLD THAT HAS AN  
31 INCOME NOT TO EXCEED ONE HUNDRED FIFTY PERCENT OF THE INCOME QUALIFICA-  
32 TION REQUIRED FOR THE REDUCED PRICE SCHOOL LUNCHEES UNDER THE NATIONAL  
33 SCHOOL LUNCH ACT, PROVIDED HOWEVER FOR THE PURPOSES OF AN EDUCATIONAL  
34 SCHOLARSHIP ORGANIZATION FULFILLING SUCH REQUIREMENT, AN EDUCATIONAL  
35 SCHOLARSHIP ORGANIZATION MAY ENTER INTO AN AGREEMENT WITH ANOTHER EDUCA-  
36 TIONAL SCHOLARSHIP ORGANIZATION OR ORGANIZATIONS TO JOINTLY REPORT THEIR  
37 SCHOLARSHIP INFORMATION TO MEET SUCH REQUIREMENT; (IV) DEPOSITS AND  
38 HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED  
39 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S  
40 OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME  
41 ARE WITHDRAWN FOR USE, AND (V) PROVIDES SCHOLARSHIPS TO ELIGIBLE PUPILS  
42 FOR USE AT NOT FEWER THAN THREE NON-PUBLIC SCHOOLS.

43 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO (I) IS A RESIDENT OF THIS STATE,  
44 (II) IS SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIR-  
45 TY-TWO HUNDRED TWO OF THIS CHAPTER OR WHO IS FOUR YEARS OF AGE ON OR  
46 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH THEY ARE ENROLLED IN A  
47 PRE-KINDERGARTEN PROGRAM, (III) ATTENDS OR IS ABOUT TO ATTEND A QUALI-  
48 FIED SCHOOL, AND (IV) RESIDES IN A HOUSEHOLD WHICH HAS A FEDERAL  
49 ADJUSTED GROSS INCOME OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR LESS,  
50 PROVIDED HOWEVER, FOR HOUSEHOLDS WITH THREE OR MORE DEPENDENT CHILDREN,  
51 SUCH INCOME LEVEL SHALL BE INCREASED BY TEN THOUSAND DOLLARS PER DEPEND-  
52 ENT CHILD IN EXCESS OF TWO CHILDREN, NOT TO EXCEED THREE HUNDRED THOU-  
53 SAND DOLLARS.

54 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS  
55 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION  
56 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR

1 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL, OR A PUBLIC SCHOOL  
2 DISTRICT, (III) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIB-  
3 UTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME DERIVED FROM  
4 SUCH QUALIFIED CONTRIBUTIONS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR  
5 PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED  
6 TO SUPPORT, AND (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY  
7 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPA-  
8 RATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED  
9 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE.

10 7. "NON-PUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN  
11 PROGRAM OR ELEMENTARY, SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL, OTHER  
12 THAN A PUBLIC SCHOOL, THAT IS PROVIDING INSTRUCTION AT ONE OR MORE  
13 LOCATIONS TO AN ELIGIBLE PUPIL IN ACCORDANCE WITH SUBDIVISION TWO OF  
14 SECTION THIRTY-TWO HUNDRED FOUR OF THIS CHAPTER.

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

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

27 10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY  
28 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, SCHOOL  
29 IMPROVEMENT DISTRICT OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT IS  
30 LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE  
31 TAXPAYER AND FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF  
32 RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION. A CONTRIBUTION DOES  
33 NOT QUALIFY IF THE TAXPAYER DESIGNATES THE TAXPAYER'S CONTRIBUTION TO AN  
34 ENTITY OR ORGANIZATION FOR THE DIRECT BENEFIT OF ANY PARTICULAR OR SPEC-  
35 IFIED STUDENT.

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

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

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

1 14. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY  
2 WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION  
3 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES  
4 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING  
5 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS  
6 DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS  
7 LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL PROGRAMS, EITHER  
8 BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL  
9 DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCATIONAL PROGRAMS TO, OR  
10 IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL  
11 DISTRICTS LOCATED IN THIS STATE, (III) DEPOSITS AND HOLDS QUALIFIED  
12 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN  
13 ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER  
14 FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR  
15 USE, AND (IV) IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO  
16 THIS ARTICLE. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-  
17 PROFIT ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM,  
18 PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A  
19 PUBLIC SCHOOL.

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

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

37 S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.  
38 EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZA-  
39 TION AND LOCAL EDUCATION FUND SHALL SUBMIT AN APPLICATION TO THE BOARD  
40 OF REGENTS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM AND  
41 MANNER PRESCRIBED BY THE BOARD OF REGENTS, PROVIDED THAT SUCH APPLICA-  
42 TION SHALL INCLUDE: (1) SUBMISSION OF DOCUMENTATION THAT SUCH SCHOOL  
43 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLAR-  
44 SHIP ORGANIZATION HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER PARA-  
45 GRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTER-  
46 NAL REVENUE CODE; (2) THE MOST RECENT ANNUAL FINANCIAL AUDIT, WHICH  
47 SHALL BE COMPLETED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, AND A  
48 LIST OF NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF THE  
49 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL  
50 SCHOLARSHIP ORGANIZATION; AND (3) AN EDUCATIONAL SCHOLARSHIP ORGANIZA-  
51 TION SHALL PROVIDE CRITERIA FOR THE AWARDING OF SCHOLARSHIPS TO ELIGIBLE  
52 STUDENTS. THE BOARD OF REGENTS, COMMISSIONER OR DEPARTMENT SHALL NOT  
53 REQUIRE ANY OTHER INFORMATION FOR SUCH APPLICATION EXCEPT AS AUTHORIZED  
54 IN THIS ARTICLE OR BY SECTION FORTY-TWO OF THE TAX LAW.

55 S 1213. APPLICATION APPROVAL. IN GENERAL. THE BOARD OF REGENTS SHALL  
56 REVIEW EACH APPLICATION TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO

1 THIS ARTICLE. APPROVAL OR DENIAL OF AN APPLICATION SHALL BE MADE AT THE  
2 NEXT SCHEDULED MEETING OF THE BOARD OF REGENTS THAT FOLLOWS RECEIPT OF  
3 SUCH APPLICATION, BUT NOT LATER THAN THE NEXT MEETING THEREAFTER.

4 S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE  
5 BOARD OF REGENTS, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND  
6 FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION,  
7 EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC  
8 SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A  
9 FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS  
10 VIOLATED THIS ARTICLE OR SECTION FORTY-TWO OF THE TAX LAW. THESE  
11 VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING:  
12 (1) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE OR SECTION  
13 FORTY-TWO OF THE TAX LAW, (2) THE FAILURE TO MAINTAIN FULL AND ADEQUATE  
14 RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (3) THE  
15 FAILURE TO SUPPLY SUCH RECORDS TO THE COMMISSIONER, DEPARTMENT OF TAXA-  
16 TION AND FINANCE, THE DEPARTMENT OR THE BOARD OF REGENTS WHEN REQUESTED  
17 BY THE DEPARTMENT OR BOARD OF REGENTS, OR (4) THE FAILURE TO PROVIDE  
18 NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE OF THE ISSUANCE OR  
19 NON-ISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION FORTY-TWO OF  
20 THE TAX LAW; PROVIDED, HOWEVER, THAT THE BOARD OF REGENTS SHALL NOT  
21 REVOKE APPROVAL PURSUANT TO THIS SECTION BASED UPON A VIOLATION OF TAX  
22 LAW UNLESS THE COMMISSIONER OF TAXATION AND FINANCE AGREES THAT REVOCATION IS WARRANTED; AND PROVIDED FURTHER THAT THE BOARD OF REGENTS SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO COMPLY IS DUE TO CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISREGARD FOR THE 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 AND TO THE DEPARTMENT OF TAXATION AND FINANCE.

31 S 1215. REPORTING AND RECORDKEEPING. 1. REPORTING. EACH EDUCATIONAL  
32 SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION  
33 FUND, PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT THAT RECEIVES QUALIFIED  
34 CONTRIBUTIONS SHALL REPORT TO THE COMMISSIONER AND THE BOARD OF  
35 REGENTS BY THE LAST DAY OF FEBRUARY OF EACH CALENDAR YEAR. SUCH REPORT  
36 SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER IN  
37 CONSULTATION WITH THE BOARD OF REGENTS, WHICH SHALL INCLUDE AN ANNUAL  
38 FINANCIAL AUDIT FROM AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND  
39 SHALL NOT EXCEED THE REQUIREMENTS NECESSARY TO PRODUCE THE INFORMATION  
40 PURSUANT TO SECTION TWELVE HUNDRED SIXTEEN OF THIS ARTICLE.

41 2. RECORDKEEPING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL  
42 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC  
43 SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT SHALL  
44 MAINTAIN RECORDS INCLUDING (A) NOTIFICATIONS RECEIVED FROM THE DEPARTMENT  
45 OF TAXATION AND FINANCE, (B) NOTIFICATIONS MADE TO THE DEPARTMENT  
46 OF TAXATION AND FINANCE, (C) COPIES OF QUALIFIED CONTRIBUTIONS RECEIVED,  
47 (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED CONTRIBUTIONS, (E) COPIES OF  
48 ISSUED CERTIFICATES OF RECEIPT, (F) ANNUAL FINANCIAL STATEMENTS, (G) IN  
49 THE CASE OF SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP  
50 ORGANIZATIONS AND LOCAL EDUCATION FUNDS, THE APPLICATION SUBMITTED  
51 PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND THE  
52 APPROVAL ISSUED BY THE BOARD OF REGENTS, AND (H) ANY OTHER INFORMATION  
53 AS PRESCRIBED BY REGULATION PROMULGATED BY THE COMMISSIONER OR RULE  
54 PROMULGATED BY THE BOARD OF REGENTS.

55 S 1216. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF JUNE FOR  
56 EACH CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE

1 COMMISSIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN  
2 PARAGRAPH TWO OF SUBDIVISION (J) OF SECTION FORTY-TWO OF THE TAX LAW.

3 S 1217. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN  
4 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS  
5 SECTION. THE COMMISSIONER SHALL MAKE ANY APPLICATION REQUIRED TO BE  
6 FILED PURSUANT TO THIS ARTICLE AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS  
7 OF THE EFFECTIVE DATE OF THIS ARTICLE.

8 S 11. The education law is amended by adding a new section 1503-a to  
9 read as follows:

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

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

19 S 12. Severability. If any provision of this section or the applica-  
20 tion thereof to any person or circumstances is held invalid, such inva-  
21 lidity shall not affect other provisions or applications of the section  
22 which can be given effect without the invalid provision or application,  
23 and to this end the provisions of this section are declared to be sever-  
24 able.

25 S 13. This act shall take effect immediately and shall apply to taxa-  
26 ble years beginning after December 31, 2016.