

5975

2015-2016 Regular Sessions

I N S E N A T E

June 15, 2015

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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

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

3 S 2. The tax law is amended by adding a new section 42 to read as
4 follows:

5 S 42. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. AS USED IN
6 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

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

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

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

LBD11678-01-5

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

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

22 (6) "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (A) IS
23 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
24 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (B) IS ESTABLISHED FOR
25 THE PURPOSE OF SUPPORTING AN EDUCATIONAL PROGRAM IN AT LEAST ONE PUBLIC
26 SCHOOL, OR PUBLIC SCHOOL DISTRICT, (C) USES AT LEAST NINETY PERCENT OF
27 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY
28 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS TO SUPPORT THE PUBLIC SCHOOL
29 OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS
30 BEEN ESTABLISHED TO SUPPORT, AND (D) DEPOSITS AND HOLDS QUALIFIED
31 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN
32 ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL
33 SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE.

34 (7) "NONPUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
35 PROGRAM OR ELEMENTARY, SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL
36 LOCATED IN THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT IS PROVIDING
37 INSTRUCTION AT ONE OR MORE LOCATIONS TO A STUDENT 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
41 DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
42 QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE PUBLIC
43 SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH
44 QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND IS APPROVED
45 TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS SECTION.

46 (9) "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
47 THIS STATE GUARANTEED BY ARTICLE ELEVEN OF THE CONSTITUTION OR CHARTER
48 SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THE EDUCATION LAW.

49 (10) "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE
50 BY A TAXPAYER TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGAN-
51 IZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION
52 THAT IS LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO
53 THE TAXPAYER AND FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF
54 RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION.

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

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

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

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

37 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE
38 NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST
39 SUCH TAX, PURSUANT TO PARAGRAPH TEN OF SUBDIVISION (A) OF THIS SECTION,
40 WITH RESPECT TO QUALIFIED CONTRIBUTIONS MADE DURING THE TAXABLE YEAR.

41 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE SEVENTY-FIVE
42 PERCENT OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS, CAPPED AT EIGHT
43 HUNDRED SEVENTY-FIVE THOUSAND DOLLARS. A TAXPAYER THAT IS A PARTNER IN
44 A PARTNERSHIP, MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN
45 AN S CORPORATION SHALL BE ALLOWED TO CLAIM ITS PRO RATA SHARE OF THE
46 CREDIT EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPO-
47 RATION, PROVIDED THAT SUCH A TAXPAYER SHALL NOT CLAIM CREDIT IN EXCESS
48 OF THE LIMIT IMPOSED BY THE PRECEDING SENTENCE.

49 (D) INFORMATION TO BE POSTED ON THE DEPARTMENT'S WEBSITE. THE COMMIS-
50 SIONER SHALL MAINTAIN ON THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE
51 AMOUNT OF AVAILABLE CREDIT FOR WHICH TAXPAYERS MAY APPLY PURSUANT TO
52 THIS SECTION. SUCH RUNNING TOTAL SHALL BE UPDATED ON A DAILY BASIS.
53 ADDITIONALLY, THE COMMISSIONER SHALL MAINTAIN ON THE DEPARTMENT'S
54 WEBSITE A LIST OF THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION
55 FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS APPROVED TO ISSUE
56 CERTIFICATES OF RECEIPT PURSUANT TO THIS SECTION.

1 (E) APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS AND
2 PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS
3 SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT PROVIDED, THAT A
4 PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL NOT BE APPROVED IF EITHER
5 (A) THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT FAILS TO DEPOSIT AND
6 HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
7 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE SCHOOL OR SCHOOL
8 DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS
9 OR INCOME ARE WITHDRAWN FOR USE, OR (B) THE COMMISSIONER HAS REVOKED
10 SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT PURSUANT
11 TO THIS SECTION.

12 2. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZA-
13 TIONS AND LOCAL EDUCATION FUNDS. NO SCHOOL IMPROVEMENT ORGANIZATION,
14 EDUCATIONAL SCHOLARSHIP ORGANIZATION OR LOCAL EDUCATION FUND SHALL ISSUE
15 ANY CERTIFICATES OF RECEIPT WITHOUT FILING AN APPLICATION AND RECEIVING
16 APPROVAL PURSUANT TO THIS SECTION.

17 (F) APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. EACH
18 SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION,
19 AND LOCAL EDUCATION FUND SHALL SUBMIT AN APPLICATION TO THE COMMISSIONER
20 FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM AND MANNER
21 PRESCRIBED BY THE COMMISSIONER; PROVIDED THAT SUCH APPLICATION SHALL
22 INCLUDE: (1) SUBMISSION OF DOCUMENTATION THAT SUCH SCHOOL IMPROVEMENT
23 ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZA-
24 TION HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF
25 SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE;
26 (2) THE MOST RECENT ANNUAL FINANCIAL AUDIT, WHICH SHALL BE COMPLETED BY
27 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND A LIST OF NAMES AND
28 ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF THE SCHOOL IMPROVE-
29 MENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP
30 ORGANIZATION; AND (3) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL
31 PROVIDE CRITERIA FOR THE AWARDING OF SCHOLARSHIPS TO ELIGIBLE STUDENTS.
32 THE COMMISSIONER OR DEPARTMENT SHALL NOT REQUIRE ANY OTHER INFORMATION
33 FOR SUCH APPLICATION EXCEPT AS AUTHORIZED IN THIS SECTION.

34 (G) APPLICATION APPROVAL. THE COMMISSIONER SHALL REVIEW EACH APPLICA-
35 TION TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS SECTION. APPROVAL
36 OR DENIAL OF AN APPLICATION SHALL BE MADE WITHIN THIRTY DAYS OF RECEIPT
37 OF SUCH APPLICATION.

38 (H) REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE
39 COMMISSIONER MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZA-
40 TION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC
41 SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A
42 FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS
43 VIOLATED THIS SECTION. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE
44 LIMITED TO, ANY OF THE FOLLOWING: (1) FAILURE TO MEET THE REQUIREMENTS
45 OF THIS SECTION, (2) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS
46 WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (3) THE FAILURE
47 TO SUPPLY SUCH RECORDS TO THE COMMISSIONER WHEN REQUESTED BY THE DEPART-
48 MENT, OR (4) THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF THE
49 ISSUANCE OR NONISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO THIS
50 SECTION; AND PROVIDED FURTHER THAT THE COMMISSIONER SHALL NOT REVOKE
51 APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO COMPLY IS DUE TO
52 CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISREGARD FOR THE LAW.
53 WITHIN FIVE DAYS OF THE DETERMINATION REVOKING APPROVAL, THE COMMISSION-
54 ER SHALL PROVIDE NOTICE OF SUCH REVOCATION TO THE EDUCATIONAL SCHOLAR-
55 SHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION
56 FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT.

1 (I) RECORDKEEPING. EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL
2 SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC
3 SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT SHALL
4 MAINTAIN RECORDS INCLUDING (A) NOTIFICATIONS RECEIVED FROM THE DEPART-
5 MENT, (B) NOTIFICATIONS MADE TO THE DEPARTMENT, (C) COPIES OF QUALIFIED
6 CONTRIBUTIONS RECEIVED, (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED
7 CONTRIBUTIONS, (E) COPIES OF ISSUED CERTIFICATES OF RECEIPT, (F) ANNUAL
8 FINANCIAL STATEMENTS, (G) IN THE CASE OF SCHOOL IMPROVEMENT ORGANIZA-
9 TIONS, EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND LOCAL EDUCATION FUNDS,
10 THE APPLICATION SUBMITTED PURSUANT TO THIS SECTION, AND (H) ANY OTHER
11 INFORMATION AS PRESCRIBED BY REGULATION PROMULGATED BY THE COMMISSIONER.

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

23 (K) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIF-
24 ICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIF-
25 ICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF
26 JANUARY AND ENDS ON THE THIRTY-FIRST DAY OF JANUARY, THE COMMISSIONER
27 SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES.
28 COMMENCING AFTER THE FIFTH DAY OF FEBRUARY, THE COMMISSIONER SHALL ISSUE
29 CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING
30 PHASE ONE, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR
31 WHICH APPLICATIONS HAVE BEEN RECEIVED DURING PHASE ONE EXCEEDS THE
32 AMOUNT OF THE CREDIT CAP IN SUBDIVISION (M) OF THIS SECTION, THEN PHASE
33 ONE OF THE CREDIT CAP APPLICATION SHALL BE ALLOCATED IN TWO STEPS. IN
34 STEP ONE, THE ALLOCATION SHALL EQUAL THE CONTRIBUTION CAP DIVIDED BY THE
35 TOTAL NUMBER OF APPLICATIONS FOR CONTRIBUTIONS, ROUNDED DOWN TO THE
36 NEAREST CENT. EACH APPLICATION REQUESTING AN AMOUNT WHICH IS LESS THAN
37 OR EQUAL TO THE ALLOCATION IN STEP ONE SHALL RECEIVE THE AMOUNT ON THEIR
38 APPLICATION FOR CONTRIBUTION AND THE DIFFERENCE, WHICH SHALL BE REFERRED
39 TO AS "EXCESS DISTRIBUTIONS" FOR THE PURPOSES OF THIS SUBDIVISION, SHALL
40 BE AVAILABLE FOR ALLOCATION IN STEP TWO. EACH APPLICATION REQUESTING AN
41 AMOUNT WHICH EXCEEDS THE ALLOCATION IN STEP ONE SHALL BE ALLOCATED CRED-
42 ITS IN STEP TWO. IN STEP TWO, IF EXCESS DISTRIBUTIONS EQUAL ZERO THEN
43 EACH APPLICATION SHALL RECEIVE THE ALLOCATION AMOUNT FROM STEP ONE,
44 OTHERWISE EACH APPLICATION SHALL RECEIVE AN AMOUNT EQUAL TO THE SUM OF
45 THE (I) THE ALLOCATION AMOUNT IN STEP ONE AND (II) A PRO RATA SHARE OF
46 AGGREGATE EXCESS DISTRIBUTIONS BASED ON THE DIFFERENCE BETWEEN THE
47 AMOUNT ON THEIR APPLICATION FOR CONTRIBUTION AND THE ALLOCATION IN STEP
48 ONE. FOR THE PURPOSES OF THIS SUBDIVISION, MULTIPLE APPLICATIONS BY THE
49 SAME TAXPAYER SHALL BE TREATED AS ONE APPLICATION. IF THE CREDIT CAP IS
50 NOT EXCEEDED, PHASE TWO COMMENCES ON FEBRUARY TWENTIETH AND ENDS ON
51 OCTOBER THIRTY-FIRST. DURING PHASE TWO THE COMMISSIONER SHALL ISSUE
52 CONTRIBUTION AUTHORIZATION CERTIFICATES ON A FIRST-COME FIRST SERVE
53 BASIS BASED UPON THE DATE THE DEPARTMENT RECEIVED THE TAXPAYER'S APPLI-
54 CATION FOR SUCH CERTIFICATE. CONTRIBUTION AUTHORIZATION CERTIFICATES
55 FOR APPLICATIONS RECEIVED DURING PHASE ONE SHALL BE MAILED NO LATER THAN
56 THE TWENTIETH DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION CERTIFICATES

1 FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE MAILED WITHIN FIVE
2 DAYS OF RECEIPT OF SUCH APPLICATIONS.

3 2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION
4 AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS
5 ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED ON THE
6 CERTIFICATE MUST BE MADE, WHICH SHALL BE NO LATER THAN NOVEMBER THIRTI-
7 ETH OF THE YEAR FOR WHICH THE CONTRIBUTION AUTHORIZATION CERTIFICATE WAS
8 ISSUED, (III) THE AMOUNT OF AUTHORIZED CONTRIBUTION, (IV) THE CERTIF-
9 ICATE NUMBER, (V) THE TAXPAYER'S NAME AND ADDRESS, (VI) THE NAME AND
10 ADDRESS OF THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,
11 LOCAL EDUCATION FUND OR EDUCATIONAL SCHOLARSHIP ORGANIZATION TO WHICH
12 THE TAXPAYER MAY MAKE THE AUTHORIZED CONTRIBUTION, AND (VII) ANY OTHER
13 INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

14 3. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
15 CERTIFICATE. UPON THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION CERTIF-
16 ICATE TO A TAXPAYER, THE COMMISSIONER SHALL NOTIFY THE PUBLIC EDUCATION
17 ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR EDUCA-
18 TIONAL SCHOLARSHIP ORGANIZATION OF THE ISSUANCE OF SUCH CONTRIBUTION
19 AUTHORIZATION CERTIFICATE. SUCH NOTIFICATION SHALL INCLUDE (I) THE
20 TAXPAYER'S NAME AND ADDRESS, (II) THE DATE SUCH CERTIFICATE WAS ISSUED,
21 (III) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE
22 NOTIFICATION MUST BE MADE BY THE TAXPAYER, (IV) THE AMOUNT OF THE
23 AUTHORIZED CONTRIBUTION, (V) THE CONTRIBUTION AUTHORIZATION CERTIF-
24 ICATE'S CERTIFICATE NUMBER, AND (VI) ANY OTHER INFORMATION THAT THE
25 COMMISSIONER DEEMS NECESSARY.

26 (L) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY,
27 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
28 SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY
29 CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY,
30 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
31 SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF
32 RECEIPT PURSUANT TO THIS SECTION. NO PUBLIC EDUCATION ENTITY, SCHOOL
33 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
34 SHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR A CONTRIB-
35 UTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY, SCHOOL
36 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
37 SHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE DEPARTMENT THAT THE
38 DEPARTMENT ISSUED A CONTRIBUTION AUTHORIZATION CERTIFICATE TO THE
39 TAXPAYER FOR SUCH CONTRIBUTION.

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

52 3. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL
53 STATE (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY,
54 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
55 SCHOLARSHIP ORGANIZATION, (II) THE TAXPAYER'S NAME AND ADDRESS, (III)
56 THE DATE FOR EACH CONTRIBUTION, (IV) THE AMOUNT OF EACH CONTRIBUTION AND

1 THE CORRESPONDING CONTRIBUTION AUTHORIZATION CERTIFICATE NUMBER, (V) THE
2 TOTAL AMOUNT OF CONTRIBUTIONS, (VI) CERTIFICATE OF RECEIPT NUMBER AND
3 (VII) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

4 4. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF
5 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING
6 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
7 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
8 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH
9 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER
10 PRESCRIBED BY THE DEPARTMENT.

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

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

33 (M) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION
34 AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR CALENDAR YEAR
35 TWO THOUSAND SIXTEEN AND EACH CALENDAR YEAR THEREAFTER SHALL BE ONE
36 HUNDRED FIFTY MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE
37 ADDED TO THE CAP PURSUANT TO SUBDIVISION (N) OF THIS SECTION. THE MAXI-
38 MUM PERMITTED CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS
39 SHALL BE ALLOCATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES, SCHOOL
40 IMPROVEMENT ORGANIZATIONS, AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT
41 TO EDUCATIONAL SCHOLARSHIP ORGANIZATIONS.

42 (N) ADDITIONS TO CREDIT CAP. UNISSUED CERTIFICATES OF RECEIPT. ANY
43 AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-ISSUANCE
44 OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP PRESCRIBED IN
45 SUBDIVISION (M) OF THIS SECTION FOR THE IMMEDIATELY FOLLOWING YEAR.

46 (O) REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE
47 AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMEN-
48 TATION OF THIS SECTION. THE COMMISSIONER MAY MAKE ANY APPLICATION
49 REQUIRED TO BE FILED PURSUANT TO SUBDIVISION (E) OF THIS SECTION AVAIL-
50 ABLE TO APPLICANTS WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
51 SECTION.

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

1 EDUCATION INVESTMENT TAX CREDIT. SUCH REPORT SHALL CONTAIN INFORMATION
2 FOR ARTICLES NINE-A AND TWENTY-TWO, RESPECTIVELY, REGARDING: (I) THE
3 NUMBER OF APPLICATIONS RECEIVED; (II) THE NUMBER OF AND AGGREGATE VALUE
4 OF THE CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS
5 TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL
6 EDUCATION FUNDS, AND SCHOLARSHIP ORGANIZATIONS, RESPECTIVELY; (III) THE
7 GEOGRAPHICAL DISTRIBUTION BY COUNTY OF (A) THE APPLICATIONS FOR CONTRIB-
8 UTION AUTHORIZATION CERTIFICATES, DISTRIBUTION BY COUNTY OF (B) THE
9 PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL
10 EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS LISTED ON THE
11 ISSUED CONTRIBUTION AUTHORIZATION CERTIFICATES; AND (IV) INFORMATION,
12 INCLUDING GEOGRAPHICAL DISTRIBUTION BY COUNTY, OF THE NUMBER OF ELIGIBLE
13 PUPILS THAT RECEIVED SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS
14 ATTENDED BY ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE
15 AVERAGE VALUE OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS.

16 (P) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
17 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

18 1. ARTICLE 9-A: SECTION 210-B; SUBDIVISION 51;

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

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

22 (22) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
23 HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH A CREDIT IS
24 CLAIMED PURSUANT TO SUBDIVISION FIFTY-ONE OF SECTION TWO HUNDRED TEN-B
25 OF THIS ARTICLE.

26 S 4. Section 210-B of the tax law is amended by adding a new subdivi-
27 sion 51 to read as follows:

28 51. EDUCATION INVESTMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A
29 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
30 SECTION FORTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTI-
31 CLE.

32 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
33 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
34 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) OR (D) OF
35 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF
36 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR QUALIFIED
37 CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
38 AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER
39 TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX
40 FOR SUCH YEAR OR YEARS.

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

44 (XLI) EDUCATION INVESTMENT	AMOUNT OF CREDIT UNDER SUBDIVISION
45 TAX CREDIT UNDER SUBSECTION (CCC)	FIFTY-ONE OF SECTION TWO HUNDRED
46	TEN-B

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

49 (W) HOME-BASED INSTRUCTIONAL MATERIALS CREDIT. (1) FOR TAXABLE YEARS
50 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, A TAXPAYER
51 SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR
52 THE PURCHASE OF INSTRUCTIONAL MATERIALS APPROVED BY THE EDUCATION
53 DEPARTMENT OR BOARD OF REGENTS FOR USE IN NON-PUBLIC HOME-BASED EDUCA-
54 TIONAL PROGRAMS; PROVIDED, THAT THE AMOUNT OF CREDIT CLAIMED DOES NOT
55 EXCEED THE LESSER OF TWO HUNDRED DOLLARS OR ONE HUNDRED PERCENT OF THE
56 COST OF SUCH PURCHASES MADE BY THE TAXPAYER DURING THE TAXABLE YEAR.

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

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

(4) THE MAXIMUM AMOUNT OF CREDIT THAT SHALL BE ALLOWED ANNUALLY UNDER THIS SUBSECTION SHALL BE FIVE MILLION DOLLARS. IN ORDER TO CLAIM A CREDIT UNDER THIS SUBSECTION, A TAXPAYER SHALL BE REQUIRED TO SUBMIT DOCUMENTATION DEMONSTRATING THAT THE TAXPAYER PURCHASED MATERIALS AND SUPPLIES. THE DEPARTMENT SHALL REVIEW THE APPLICATION AND PROVIDE A TAXPAYER WITH A CERTIFICATE THAT SPECIFIES HOW MUCH CREDIT THE TAXPAYER IS ENTITLED TO CLAIM. IF REQUIRED BY THE COMMISSIONER, THE TAXPAYER MUST SUBMIT THAT CERTIFICATE WITH HIS OR HER TAX RETURN. THE COMMISSIONER SHALL ALLOCATE THE CREDITS ON A FIRST COME FIRST SERVE BASIS AND PRESCRIBE THE NECESSARY PROCEDURES FOR REVIEWING THE APPLICATIONS AND PRODUCING THE CERTIFICATES.

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

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

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

(4) THE MAXIMUM AMOUNT OF CREDIT THAT SHALL BE ALLOWED ANNUALLY UNDER THIS SUBSECTION SHALL BE TWENTY MILLION DOLLARS. IN ORDER TO CLAIM A CREDIT UNDER THIS SUBSECTION, A TAXPAYER SHALL BE REQUIRED TO SUBMIT DOCUMENTATION DEMONSTRATING THAT THE TAXPAYER PURCHASED MATERIALS AND SUPPLIES. THE DEPARTMENT SHALL REVIEW THE APPLICATION AND PROVIDE A TAXPAYER WITH A CERTIFICATE THAT SPECIFIES HOW MUCH CREDIT THE TAXPAYER IS ENTITLED TO CLAIM. IF REQUIRED BY THE COMMISSIONER, THE TAXPAYER MUST SUBMIT THAT CERTIFICATE WITH HIS OR HER TAX RETURN. THE COMMISSIONER SHALL ALLOCATE THE CREDITS ON A FIRST COME FIRST SERVE BASIS AND PRESCRIBE THE NECESSARY PROCEDURES FOR REVIEWING THE APPLICATIONS AND PRODUCING THE CERTIFICATES.

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

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

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

1 TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX
2 FOR SUCH YEAR OR YEARS.

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

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

8 S 9. Section 606 of the tax law is amended by adding a new subsection
9 (eee) to read as follows:

10 (EEE) FAMILY CHOICE EDUCATION CREDIT. (1) GENERAL. A RESIDENT TAXPAYER
11 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN PARAGRAPH FOUR
12 OF THIS SUBSECTION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR QUALI-
13 FIED PRIMARY OR SECONDARY EDUCATION TUITION EXPENSES.

14 (2) DEFINITIONS. FOR THE PURPOSES OF THIS SUBSECTION:

15 (A) THE TERM "ELIGIBLE STUDENT" SHALL MEAN ANY DEPENDENT OF THE
16 TAXPAYER WITH RESPECT TO WHOM THE TAXPAYER IS ALLOWED AN EXEMPTION UNDER
17 SECTION SIX HUNDRED SIXTEEN OF THIS ARTICLE FOR THE TAXABLE YEAR.

18 (B) THE TERM "QUALIFIED PRIMARY OR SECONDARY EDUCATION TUITION
19 EXPENSES" SHALL MEAN THE TUITION REQUIRED FOR THE ENROLLMENT OR ATTEND-
20 ANCE OF AN ELIGIBLE STUDENT AT A QUALIFIED SCHOOL, AS DEFINED IN SECTION
21 FORTY-TWO OF THIS CHAPTER. PROVIDED, HOWEVER, TUITION PAYMENTS MADE
22 PURSUANT TO THE RECEIPT OF ANY SCHOLARSHIPS OR FINANCIAL AID SHALL BE
23 EXCLUDED FROM THE DEFINITION OF "QUALIFIED PRIMARY OR SECONDARY EDUCA-
24 TION TUITION EXPENSES".

25 (3) ELIGIBILITY. TO BE ELIGIBLE FOR THIS CREDIT, THE NEW YORK ADJUSTED
26 GROSS INCOME OF THE TAXPAYER FOR THE TAXABLE YEAR MAY NOT EXCEED EIGHTY
27 THOUSAND DOLLARS OR IN THE CASE OF A JOINT RETURN, MAY NOT EXCEED ONE
28 HUNDRED TEN THOUSAND DOLLARS.

29 (4) JOINT RETURN FILERS. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS
30 FOR A TAXABLE YEAR IN WHICH THEY COULD HAVE FILED A JOINT RETURN MAY
31 EACH CLAIM ONLY ONE-HALF OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED
32 FOR A JOINT RETURN.

33 (5) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE
34 LESSER OF FIVE HUNDRED DOLLARS OR THE ACTUAL AMOUNT OF QUALIFIED PRIMARY
35 OR SECONDARY EDUCATION TUITION EXPENSES PAID BY THE TAXPAYER FOR ALL
36 ELIGIBLE STUDENTS DURING THE TAXABLE YEAR.

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

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

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

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

54 S 11. Severability. If any provision of this section or the applica-
55 tion thereof to any person or circumstances is held invalid, such inva-
56 lidity shall not affect other provisions or applications of the section

1 which can be given effect without the invalid provision or application,
2 and to this end the provisions of this section are declared to be sever-
3 able.
4 S 12. This act shall take effect immediately and shall apply to taxa-
5 ble years beginning after December 31, 2015.