

8135

I N S E N A T E

June 14, 2016

Introduced by Sens. FLANAGAN, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend chapter 91 of the laws of 2002, amending the education law and other laws relating to reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness thereof; to amend chapter 345 of the laws of 2009, amending the education law and other laws relating to the New York city board of education, chancellor, community councils and community superintendents, in relation to the effectiveness thereof; and to amend the education law, in relation to the New York city school district system (Part A); to amend the education law, in relation to teacher certification in public charter schools (Part B); to amend the tax law and the education law, in relation to enacting the "education investment incentives act" (Part C); to amend the education law, in relation to documentation demonstrating a school district has fully implemented standards and procedures for conducting annual teacher and principal evaluations; and to amend chapter 53 of the laws of 2016, enacting the aid to localities budget, in relation to making additional appropriations therein (Part D); and to amend the education law and the tax law, in relation to contracts for the transportation of school children (Part E)

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

1 Section 1. This act enacts into law major components of legislation
2 relating to education within New York state. Each component is wholly
3 contained within a Part identified as Parts A through E. The effective
4 date for each particular provision contained within such Part is set
5 forth in the last section of such Part. Any provision in any section
6 contained within a Part, including the effective date of the Part, which
7 makes a reference to a section "of this act", when used in connection
8 with that particular component, shall be deemed to mean and refer to the
9 corresponding section of the Part in which it is found. Section three of
10 this act sets forth the general effective date of this act.

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

LBD15669-15-6

1

PART A

2 Section 1. Section 34 of chapter 91 of the laws of 2002 amending the
3 education law and other laws relating to reorganization of the New York
4 city school construction authority, board of education and community
5 boards, as amended by section 1 of subpart D of part B of chapter 20 of
6 the laws of 2015, is amended to read as follows:

7 S 34. This act shall take effect July 1, 2002; provided, that sections
8 one through twenty, twenty-four, and twenty-six through thirty of this
9 act shall expire and be deemed repealed [June 30, 2016] JUNE 30, 2019;
10 provided, further, that notwithstanding any provision of article 5 of
11 the general construction law, on [June 30, 2016] JUNE 30, 2019 the
12 provisions of subdivisions 3, 5, and 8, paragraph b of subdivision 13,
13 subdivision 14, paragraphs b, d, and e of subdivision 15, and subdivi-
14 sions 17 and 21 of section 2554 of the education law as repealed by
15 section three of this act, subdivision 1 of section 2590-b of the educa-
16 tion law as repealed by section six of this act, paragraph (a) of subdivi-
17 sion 2 of section 2590-b of the education law as repealed by section
18 seven of this act, section 2590-c of the education law as repealed by
19 section eight of this act, paragraph c of subdivision 2 of section
20 2590-d of the education law as repealed by section twenty-six of this
21 act, subdivision 1 of section 2590-e of the education law as repealed by
22 section twenty-seven of this act, subdivision 28 of section 2590-h of
23 the education law as repealed by section twenty-eight of this act,
24 subdivision 30 of section 2590-h of the education law as repealed by
25 section twenty-nine of this act, subdivision 30-a of section 2590-h of
26 the education law as repealed by section thirty of this act shall be
27 revived and be read as such provisions existed in law on the date imme-
28 diately preceding the effective date of this act; provided, however,
29 that sections seven and eight of this act shall take effect on November
30 30, 2003; provided further that the amendments to subdivision 25 of
31 section 2554 of the education law made by section two of this act shall
32 be subject to the expiration and reversion of such subdivision pursuant
33 to section 12 of chapter 147 of the laws of 2001, as amended, when upon
34 such date the provisions of section four of this act shall take effect.

35 S 2. Subdivision 12 of section 17 of chapter 345 of the laws of 2009
36 amending the education law and other laws relating to the New York city
37 board of education, chancellor, community councils and community super-
38 intendents, as amended by section 2 of subpart D of part B of chapter 20
39 of the laws of 2015, is amended to read as follows:

40 12. any provision in sections one, two, three, four, five, six, seven,
41 eight, nine, ten and eleven of this act not otherwise set to expire
42 pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or
43 section 17 of chapter 123 of the laws of 2003, as amended, shall expire
44 and be deemed repealed [June 30, 2016] JUNE 30, 2019.

45 S 3. Paragraph (a) of subdivision 1 of section 2590-b of the education
46 law, as amended by chapter 345 of the laws of 2009, is amended to read
47 as follows:

48 (a) The board of education of the city school district of the city of
49 New York is hereby continued. Such board of education shall consist of
50 thirteen appointed members: one member to be appointed by each borough
51 president of the city of New York; and eight members to be appointed by
52 the mayor of the city of New York. The chancellor shall serve as an
53 ex-officio non-voting member of the city board. The city board shall
54 elect its own chairperson from among its voting members. All thirteen
55 appointed members shall serve at the pleasure of the appointing authori-

1 ty and shall not be employed in any capacity by the city of New York, or
2 a subdivision thereof, or the city board. No appointed member of the
3 city board shall also be a member, officer, or employee of any public
4 corporation, authority, or commission where the mayor of the city of New
5 York has a majority of the appointments. ANY LOBBYIST OR CLIENT OF A
6 LOBBYIST, REGISTERED WITH THE NEW YORK CITY CLERK, SHALL NOT BE ELIGIBLE
7 TO SERVE AS AN APPOINTED MEMBER FOR A PERIOD OF TWO YEARS FROM THE LAST
8 ENGAGEMENT OF LOBBYING OR LOBBYING ACTIVITIES, AS SUCH TERMS ARE DEFINED
9 BY SUBDIVISION (C) OF SECTION 3-211 OF THE ADMINISTRATIVE CODE OF THE
10 CITY OF NEW YORK. Each borough president's appointee shall be a resident
11 of the borough for which the borough president appointing him or her was
12 elected and shall be the parent of a child attending a public school
13 within the city school district of the city of New York. Each mayoral
14 appointee shall be a resident of the city and two shall be parents of a
15 child attending a public school within the city district. All parent
16 members shall be eligible to continue to serve on the city board for two
17 years following the conclusion of their child's attendance at a public
18 school within the city district. Any vacancy shall be filled by appoint-
19 ment by the appropriate appointing authority within ninety days of such
20 vacancy. Notwithstanding any provision of local law, the members of the
21 board shall not have staff, offices, or vehicles assigned to them or
22 receive compensation for their services, but shall be reimbursed for the
23 actual and necessary expenses incurred by them in the performance of
24 their duties.

25 S 4. Section 2590-g of the education law is amended by adding a new
26 subdivision 12-a to read as follows:

27 12-A. PROVIDE INFORMATION, DATA, ESTIMATES AND STATISTICS REGARDING
28 ALL MATTERS RELATING TO THE CITY DISTRICT, AS REQUESTED BY MEMBERS AND
29 OFFICERS OF THE SENATE, ASSEMBLY, AND GOVERNOR'S OFFICE, IN A TIMELY
30 FASHION. SUCH INFORMATION SHALL BE MAINTAINED AND UPDATED IN A TIMELY
31 FASHION AND SHALL AT A MINIMUM INCLUDE DATA RELATING TO: (A) NEW YORK
32 CITY DEPARTMENT OF EDUCATION SCHOOL CHARACTERISTICS INCLUDING GRADES
33 SERVED, NUMBER OF TEACHERS, STUDENT ENROLLMENT, SCHOOL TYPE, SCHOOL
34 CHARACTERISTICS, QUALITY REVIEW SCORES, GRADUATION RATES AND AVERAGE
35 CLASS SIZE; (B) NEW YORK CITY DEPARTMENT OF EDUCATION PRINCIPAL CHARAC-
36 TERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF
37 EXPERIENCE AND TENURE STATUS; (C) NEW YORK CITY DEPARTMENT OF EDUCATION
38 TEACHER CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION
39 LEVEL, YEARS OF TEACHING EXPERIENCE, TENURE STATUS, SUBJECT AREA TAUGHT,
40 NUMBER OF STUDENTS TAUGHT, NUMBER OF CLASSES TAUGHT PER DAY AND ATTRI-
41 TION RATE; (D) NEW YORK CITY DEPARTMENT OF EDUCATION STUDENT CHARACTER-
42 ISTICS INCLUDING GRADE LEVEL, SCHOOL ATTENDANCE, AND OTHER DEMOGRAPHICS;
43 (E) GIFTED AND TALENTED PROGRAMS APPLICATION DATA INCLUDING ADMISSION
44 DECISIONS, STUDENT DEMOGRAPHICS AND STUDENT TEST SCORES; (F) PRE-KINDER-
45 GARTEN PROGRAMS INCLUDING PROGRAM LOCATIONS, CAPACITY, STUDENT ENROLL-
46 MENT, NUMBER OF TEACHERS, TEACHER CHARACTERISTICS, STUDENT ATTENDANCE,
47 STUDENT DEMOGRAPHICS AND EFFECTIVENESS DATA; (G) FUNDING FOR NEW YORK
48 CITY DEPARTMENT OF EDUCATION SCHOOLS INCLUDING DEPARTMENT FUNDING BY
49 DOLLARS, EXPENDITURES BY CATEGORY AND EXTERNAL FUNDING IN DOLLARS; (H)
50 FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION PROGRAMS INCLUDING
51 DEPARTMENT FUNDING IN DOLLARS, AND EXTERNAL FUNDING IN DOLLARS; AND (I)
52 GENERAL NEW YORK CITY DEPARTMENT OF EDUCATION BUDGET. PROVIDED, HOWEV-
53 ER, THAT ALL INQUIRIES MADE IN ACCORDANCE WITH THIS SUBDIVISION SHALL
54 COMPLY WITH APPLICABLE STATE AND FEDERAL PRIVACY LAWS.

55 S 5. Subdivision 2 of section 2590-p of the education law is amended
56 by adding a new paragraph i to read as follows:

1 I. OVERCROWDING AND UNDERUTILIZATION. THE PLAN SHALL IDENTIFY THE TEN
2 MOST OVERCROWDED AND THE TEN MOST UNDERUTILIZED SCHOOL BUILDINGS AND
3 SHALL DETAIL STEPS TO BE TAKEN TO ADDRESS SUCH ISSUES.

4 S 6. Section 2590-q of the education law is amended by adding a new
5 subdivision 19 to read as follows:

6 19. WITH RESPECT TO SPECIAL, FEDERAL, STATE, AND PRIVATE FUNDS, THE
7 CHANCELLOR SHALL REPORT THE DISTRIBUTION OF SUCH FUNDS BY INDIVIDUAL
8 SCHOOL, AND ON A PER PUPIL BASIS FOR EACH INDIVIDUAL SCHOOL TO THE
9 GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY,
10 AND SPEAKER OF THE CITY COUNCIL ON OR BEFORE MAY FIRST OF EACH YEAR.

11 S 7. The opening paragraph of section 2590-r of the education law, as
12 amended by chapter 345 of the laws of 2009, is amended to read as
13 follows:

14 The chancellor shall, in consultation with the city board and communi-
15 ty district superintendents, establish in regulations a comprehensive
16 process of school-based budgeting and expenditure reporting no later
17 than November first, nineteen hundred ninety-eight. ANY REPORT PREPARED
18 IN ACCORDANCE WITH THIS SECTION SHALL BE PUBLICLY AVAILABLE ON THE
19 WEBSITE OF THE NEW YORK CITY DEPARTMENT OF EDUCATION. Notwithstanding
20 any provision of section twenty-five hundred ninety-q of this article to
21 the contrary, such regulations shall include provisions for:

22 S 8. Subparagraph 2 of paragraph (b) of subdivision 6 of section
23 2590-c of the education law, as amended by chapter 103 of the laws of
24 2014, is amended to read as follows:

25 (2) If such vacancy results in the council not having at least one
26 member who is a parent of a student who is an English language learner
27 or who has been an English language learner within the preceding two
28 years, or results in the council not having at least one member who is a
29 parent of a student with an individualized education program, the
30 [community council] BOROUGH PRESIDENT shall select a parent having such
31 qualifications to fill the vacancy.

32 S 9. Paragraph (c) of subdivision 6 of section 2590-c of the education
33 law, as amended by chapter 345 of the laws of 2009, is amended to read
34 as follows:

35 (c) If the vacancy is not filled by the community council within sixty
36 days after it is declared due to a tie vote for such appointment, the
37 [chancellor] BOROUGH PRESIDENT shall vote with the community council, to
38 break such tie vote. If the community council has failed to fill the
39 vacancy within sixty days after it is declared because of any other
40 reason, the chancellor shall order the community council to do so pursu-
41 ant to section twenty-five hundred [ninety-1] NINETY-L of this article.

42 S 10. Subdivisions 8 and 14 of section 2590-e of the education law,
43 subdivision 8 as amended and subdivision 14 as added by chapter 123 of
44 the laws of 2003, are amended and two new subdivisions 22 and 23 are
45 added to read as follows:

46 8. Each year prepare a school district report card pursuant to regu-
47 lations of the commissioner, and shall make it publicly available by
48 transmitting it to local newspapers of general circulation, appending it
49 to copies of the proposed budget made publicly available as required by
50 law, making it available for distribution at the annual meeting, SUBMIT
51 IT TO THE COMMUNITY BOARD WHICH SHALL PRESENT SUCH REPORT CARD AT ITS
52 NEXT SCHEDULED MEETING, and otherwise disseminating it as required by
53 the commissioner. Such report card shall include measures of the academ-
54 ic performance of the school district, on a school by school basis, and
55 measures of the fiscal performance of the district, as prescribed by the
56 commissioner. Pursuant to regulations of the commissioner, the report

1 card shall also compare these measures to statewide averages for all
2 public schools, and statewide averages for public schools of comparable
3 wealth and need, developed by the commissioner. Such report card shall
4 include, at a minimum, any information on the school district regarding
5 pupil performance and expenditure per pupil required to be included in
6 the annual report by the requests to the governor and the legislature
7 pursuant to section two hundred fifteen-a of this chapter; and any other
8 information required by the commissioner. School districts (i) identi-
9 fied as having fifteen percent or more of their students in special
10 education, or (ii) which have fifty percent or more of their students
11 with disabilities in special education programs or services sixty
12 percent or more of the school day in a general education building, or
13 (iii) which have eight percent or more of their students with disabili-
14 ties in special education programs in public or private separate educa-
15 tional settings shall indicate on their school district report card
16 their respective percentages as defined in this paragraph and paragraphs
17 (i) and (ii) of this subdivision as compared to the statewide average.

18 14. Hold public meetings at least every month with the superintendent
19 during which the public may speak so that parents and the community have
20 a voice and a public forum to air their concerns. DURING TWO OF THESE
21 PUBLIC MEETINGS ANNUALLY, THE COMMUNITY DISTRICT COUNCIL MEMBER
22 APPOINTED TO A COMMUNITY BOARD ON EITHER A YOUTH AND EDUCATION COMMITTEE
23 OR A COMMITTEE THAT FOCUSES ON SUCH ISSUES PURSUANT TO SUBDIVISION TWEN-
24 TY-TWO OF THIS SECTION, SHALL PROVIDE UPDATES AS REQUIRED BY SUCH SUBDI-
25 VISION. ONE OF THE TWO REQUIRED MEETINGS SHALL BE THE DISTRIBUTION OF
26 COMMUNITY COUNCIL'S REQUIRED REPORT CARD PURSUANT TO SUBDIVISION EIGHT
27 OF THIS SECTION.

28 22. APPOINT ONE OF ITS MEMBERS, BY MAJORITY VOTE, TO ITS RESPECTIVE
29 COMMUNITY BOARD ON EITHER YOUTH AND EDUCATION COMMITTEES OR A COMMITTEE
30 THAT FOCUSES ON SIMILAR ISSUES. SUCH MEMBER SHALL SERVE AS A LIAISON
31 BETWEEN THE TWO ENTITIES AND SHALL BE RESPONSIBLE FOR PROVIDING MONTHLY
32 COMMUNITY COUNCIL UPDATES AT COMMUNITY BOARD COMMITTEE MEETINGS AS WELL
33 AS GATHER INPUT ON RELEVANT COMMUNITY COUNCIL AND CITY BOARD ISSUES.
34 SUCH MEMBER SHALL ALSO BE RESPONSIBLE FOR PROVIDING SEMI-ANNUAL UPDATES
35 TO THEIR RESPECTIVE COMMUNITY BOARD REGARDING ANY PROPOSED OR APPROVED
36 SIGNIFICANT CHANGES TO THE SCHOOLS IN THEIR COMMUNITY SCHOOL DISTRICTS.

37 23. COORDINATE WITH THE COMMUNITY BOARD OR BOARDS, ESTABLISHED BY
38 SECTION TWO THOUSAND EIGHT HUNDRED OF THE NEW YORK CITY CHARTER, WHOSE
39 BOUNDARIES OVERLAP TO THOSE OF THE COMMUNITY DISTRICT. THIS COORDINATION
40 ON THE PART OF THE COMMUNITY BOARDS SHALL INCLUDE, BUT SHALL NOT BE
41 LIMITED TO, MAKING SPACE AVAILABLE FOR MONTHLY MEETINGS, HELPING TO
42 PUBLICIZE MEETINGS OF THE COMMUNITY EDUCATION COUNCIL, ALLOWING COMMUNI-
43 TY BOARD STAFF TO PROVIDE CLERICAL AND ADMINISTRATIVE SUPPORT TO THE
44 MEMBERS OF THE COMMUNITY EDUCATION COUNCIL, RECEIVING REPORTS FROM THE
45 COMMUNITY EDUCATION COUNCIL INCLUDING AN ANNUAL REPORT CARD ON THE
46 CONDITION OF SCHOOLS IN THE COMMUNITY DISTRICT AND ANY PROPOSED OR PEND-
47 ING CHANGES IN EDUCATION POLICY, AND HELPING DISSEMINATE INFORMATION ON
48 EDUCATION ISSUES PREPARED BY THE COMMUNITY EDUCATION COUNCIL TO PARENTS
49 AND OTHER COMMUNITY ORGANIZATIONS AND MEMBERS.

50 S 11. Paragraph (v) of subdivision 1 of section 2590-f of the educa-
51 tion law, as added by chapter 345 of the laws of 2009, is amended and
52 three new paragraphs (x), (y) and (z) are added to read as follows:

53 (v) to hold at least two public forums within the district, during
54 each school year, for the purpose of reporting on the district's
55 performance, including progress made toward achieving the district
56 comprehensive educational plan goals, discussing plans for improvement,

1 and receiving parental and community comments and concerns; the communi-
2 ty superintendent shall ensure that notice for the public forums is
3 posted in a manner to maximize the participation of parents, students
4 and school personnel and is specifically circulated to members of the
5 school based management teams, community district education council and
6 the [relevant] community [boards] BOARD.

7 (X) TO PROVIDE COMMUNITY COUNCILS THE NECESSARY STAFF AND FINANCIAL
8 RESOURCES NEEDED TO PREPARE THE DISTRICT REPORT CARD PURSUANT TO SUBDI-
9 VISION EIGHT OF SECTION TWENTY-FIVE HUNDRED NINETY-E OF THIS ARTICLE.
10 SUCH RESOURCES SHALL INCLUDE BUT SHALL NOT BE LIMITED TO (I) INDIVIDUAL
11 SCHOOL AND COMMUNITY DISTRICT DATA AND ANALYSIS TO COMPLETE SUCH REPORT
12 AT LEAST FORTY-FIVE DAYS PRIOR TO THE DEADLINE FOR SUCH REPORT; (II) A
13 STANDARDIZED TEMPLATE AND OUTLINE TO ASSIST COMMUNITY COUNCILS DETERMIN-
14 ING THE CONTENT NECESSARY TO INCLUDE IN SUCH REPORT; AND (III) TIMELINE
15 CONSULTATION AS WELL AS TECHNICAL SUPPORT WITH THE COMMUNITY COUNCILS
16 FOR ON-TIME COMPLETION.

17 (Y) TO PUBLISH AND PUBLICIZE COMMUNITY COUNCIL REPORT CARDS, REQUIRED
18 BY SUBDIVISION EIGHT OF SECTION TWENTY-FIVE HUNDRED NINETY-E OF THIS
19 TITLE, PUBLICLY AVAILABLE ON THE CITY BOARD'S WEBSITE, LOCAL NEWS
20 OUTLETS AS WELL AS TO LOCAL ELECTED OFFICIAL AND COMMUNITY LEADER
21 OFFICES.

22 (Z) TO PROVIDE A WRITTEN RESPONSE WITHIN THIRTY DAYS OF PRODUCTION AND
23 DISTRIBUTION OF THE COMMUNITY COUNCIL'S REPORT CARD INDICATING ITS
24 RECEIPT AND SUBSEQUENT PLAN FOR ITS SCHOOL. SUCH RESPONSE SHALL BE MADE
25 PUBLICLY AVAILABLE NO LATER THAN THIRTY DAYS AFTER ITS SUBMISSION TO
26 SUCH COMMUNITY COUNCIL.

27 S 12. Paragraphs (d) and (d-1) of subdivision 2-a of section 2590-h of
28 the education law, as added by chapter 345 of the laws of 2009, are
29 amended to read as follows:

30 (d) No sooner than thirty days, but no later than forty-five days
31 following the filing of the educational impact statement, the chancellor
32 or deputy chancellor, or in the case of a proposed significant change in
33 school utilization the chancellor or his or her designee, shall hold a
34 joint public hearing with the impacted community council and school
35 based management team, at the school that is subject to the proposed
36 school closing or significant change in school utilization, and shall
37 allow PARENTS, COMMUNITY MEMBERS AND all OTHER interested parties an
38 opportunity to present comments or concerns regarding the proposed
39 school closing or significant change in school utilization. The chancel-
40 lor shall ensure that notice of such hearing is widely and conspicuously
41 posted in such a manner to maximize the number of affected individuals
42 that receive notice, including providing notice to affected parents and
43 students, and shall also notify members of the community boards and the
44 elected state and local officials who represent the affected community
45 district.

46 (d-1) So long as the revised proposal does not impact any school other
47 than a school that was identified in the initial educational impact
48 statement, the chancellor, after receiving public input, may substan-
49 tially revise the proposed school closing or significant change in
50 school utilization provided that the chancellor shall prepare a revised
51 educational impact statement, in the form prescribed in paragraph (b) of
52 this subdivision, and publish and file such educational impact statement
53 in the same manner as prescribed in paragraph (c) of this subdivision.
54 No sooner than fifteen days following the filing of such revised educa-
55 tional impact statement, the chancellor or deputy chancellor, or in the
56 case of a significant change in school utilization the chancellor or his

1 or her designee, shall hold a joint public hearing with the impacted
2 community council and school based management team, at the school that
3 is subject to the proposed school closing or significant change in
4 school utilization and shall allow PARENTS, COMMUNITY MEMBERS AND all
5 OTHER interested parties an opportunity to present comments and concerns
6 regarding such proposal. The chancellor shall ensure that notice of
7 such hearing is widely and conspicuously posted in such a manner to
8 maximize the number of affected individuals that receive notice, includ-
9 ing providing notice to affected parents and students, and shall also
10 notify members of the community boards and the elected state and local
11 officials who represent the affected community district.

12 S 13. This act shall take effect immediately, provided that:

13 1. the amendments to section 2590-b of the education law made by
14 section three of this act shall not affect the expiration of such
15 section and shall be deemed to expire therewith;

16 2. the amendments to section 2590-g of the education law made by
17 section four of this act shall not affect the expiration of such section
18 and shall be deemed to expire therewith;

19 3. the amendments to section 2590-q of the education law made by
20 section six of this act shall not affect the expiration of such section
21 and shall be deemed to expire therewith;

22 4. the amendments to section 2590-r of the education law made by
23 section seven of this act shall not affect the expiration of such
24 section and shall be deemed to expire therewith;

25 5. sections eight, nine, ten and eleven of this act shall take effect
26 on the one hundred twentieth day after this act shall have become a law;

27 6. the amendments to section 2590-c of the education law, made by
28 sections eight and nine of this act, shall not affect the repeal of such
29 section and shall be deemed repealed therewith;

30 7. the amendments to section 2590-e of the education law, made by
31 section ten of this act, shall not affect the expiration and repeal of
32 such section and shall expire and be deemed repealed therewith;

33 8. the amendments to section 2590-f of the education law, made by
34 section eleven of this act, shall not affect the expiration and rever-
35 sion of such section and shall expire and be deemed repealed therewith;
36 and

37 9. the amendments to section 2590-h of the education law, made by
38 section twelve of this act, shall not affect the expiration and rever-
39 sion of such section and shall expire and be deemed repealed therewith.

40 PART B

41 Section 1. Paragraph (a-1) of subdivision 3 of section 2854 of the
42 education law, as amended by section 1 of subpart A of part B of chapter
43 20 of the laws of 2015, is amended to read as follows:

44 (a-1) The board of trustees of a charter school shall employ and
45 contract with necessary teachers, administrators and other school
46 personnel. Such teachers shall be certified in accordance with the
47 requirements applicable to other public schools; provided, however, that
48 TEACHERS EMPLOYED BY A PUBLIC CHARTER SCHOOL WITH A TEACHER TRAINING
49 PROGRAM WILL HAVE THREE YEARS FROM THEIR EMPLOYMENT START DATE BEFORE
50 THEY MUST SATISFY CERTIFICATION REQUIREMENTS; AND, a charter school may
51 employ as teachers (i) uncertified teachers with at least three years of
52 elementary, middle or secondary classroom teaching experience; (ii)
53 tenured or tenure track college faculty; (iii) individuals with two
54 years of satisfactory experience through the Teach for America program;

1 and (iv) individuals who possess exceptional business, professional,
2 artistic, athletic, or military experience, provided, however, that such
3 teachers described in clauses (i), (ii), (iii), and (iv) of this para-
4 graph shall not in total comprise more than the sum of: (A) thirty per
5 centum of the teaching staff of a charter school, or five teachers,
6 whichever is less; plus (B) five teachers of mathematics, science,
7 computer science, technology, or career and technical education; plus
8 (C) five additional teachers. A teacher certified or otherwise approved
9 by the commissioner shall not be included in the numerical limits estab-
10 lished by the preceding sentence.
11 S 2. This act shall take effect immediately.

12 PART C

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

15 S 2. The tax law is amended by adding a new section 43 to read as
16 follows:

17 S 43. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. FOR THE
18 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE SAME DEFINI-
19 TION AS PROVIDED FOR IN ARTICLE TWENTY-FIVE OF THE EDUCATION LAW:

20 "AUTHORIZED CONTRIBUTION";
21 "CONTRIBUTION";
22 "EDUCATIONAL PROGRAM";
23 "EDUCATIONAL SCHOLARSHIP ORGANIZATION";
24 "ELIGIBLE PUPIL";
25 "LOCAL EDUCATION FUND";
26 "NONPUBLIC SCHOOL";
27 "PUBLIC EDUCATION ENTITY";
28 "PUBLIC SCHOOL";
29 "QUALIFIED CONTRIBUTION";
30 "QUALIFIED EDUCATOR";
31 "QUALIFIED SCHOOL";
32 "SCHOLARSHIP"; AND
33 "SCHOOL IMPROVEMENT ORGANIZATION".

34 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE
35 NINE-A OR TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED CREDIT AGAINST
36 SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (L) OF
37 THIS SECTION, WITH RESPECT TO QUALIFIED CONTRIBUTIONS MADE DURING THE
38 TAXABLE YEAR.

39 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE NINETY PERCENT
40 OF THE TAXPAYER'S TOTAL QUALIFIED CONTRIBUTIONS, CAPPED AT ONE MILLION
41 DOLLARS. A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP, MEMBER OF A
42 LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION SHALL BE
43 ALLOWED TO CLAIM ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PARTNER-
44 SHIP, LIMITED LIABILITY COMPANY OR S CORPORATION, PROVIDED THAT SUCH A
45 TAXPAYER SHALL NOT CLAIM CREDIT IN EXCESS OF THE LIMIT IMPOSED BY THE
46 PRECEDING SENTENCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 (K) WRITTEN REPORT. ON OR BEFORE THE LAST DAY OF JUNE FOR EACH CALEN-
54 DAR YEAR, FOR THE IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND THE
55 COMMISSIONER OF EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO THE
56 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 25

EDUCATION INVESTMENT TAX CREDIT PROGRAM

SECTION 1209. SHORT TITLE.

1210. DEFINITIONS.

1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1213. APPLICATION APPROVAL.

1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1215. RECORDKEEPING.

1216. JOINT ANNUAL REPORT.

1217. COMMISSIONER; POWERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

40 12. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NONPUBLIC SCHOOL.

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

55 14. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
56 WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION

1 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
2 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING
3 THE CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIB-
4 UTIONS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN
5 THIS STATE IN THEIR PROVISION OF EDUCATIONAL PROGRAMS, EITHER BY MAKING
6 CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS
7 LOCATED IN THIS STATE OR PROVIDING EDUCATIONAL PROGRAMS TO, OR IN
8 CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS
9 LOCATED IN THIS STATE, (III) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS
10 AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS IN AN ACCOUNT
11 THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL
12 SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, AND (IV)
13 IS APPROVED TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.
14 SUCH ENTITY MAY ALLOW THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM,
15 PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A
16 PUBLIC SCHOOL.

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

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

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

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

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

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

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

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

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

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

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

S 11. Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

S 12. This act shall take effect immediately and shall apply to taxable years beginning after December 31, 2016.

PART D

Section 1. Section 3012-d of the education law is amended by adding a new subdivision 11-a to read as follows:

11-A. FOR DISTRICTS FOR WHICH ON SEPTEMBER FIRST, TWO THOUSAND SIXTEEN, THERE IS NO APPROVED PLAN AND SUCH DISTRICTS LOSE AID PURSUANT TO CHAPTER SIXTY-ONE OF THE LAWS OF TWO THOUSAND FIFTEEN AND CHAPTER FIFTY-THREE OF THE LAWS OF TWO THOUSAND SIXTEEN, SUCH DISTRICTS SHALL BE SUBJECT TO A SUPPLEMENTAL APPORTIONMENT OF AID, SUBJECT TO AN APPROPRIATION, THAT IS EQUIVALENT TO THE LOSS IN AID DUE TO THE SCHOOL DISTRICTS FAILURE TO HAVE AN APPROVED ANNUAL TEACHER AND PRINCIPAL EVALUATION PLAN CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, IF A PLAN IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION IS APPROVED BY THE DEPARTMENT BY DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN.

S 2. Section 1 of chapter 53 of the laws of 2016, enacting the aid to localities budget, is amended by adding to such section the items underscored in this section.

EDUCATION DEPARTMENT AID TO LOCALITIES 2016-2017

OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION PROGRAM

General Fund

Local Assistance Account - 10000

NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, FOR SUPPLEMENTAL GENERAL SUPPORT FOR PUBLIC SCHOOLS INCLUDING AID FOR SUCH FISCAL YEARS PAYABLE PURSUANT TO SECTION 3609-D OF THE EDUCATION LAW, AS PROVIDED HEREIN.

NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, SCHOOL DISTRICTS THAT DO NOT HAVE APPROVED AND FULLY IMPLEMENTED STANDARDS AND PROCEDURES FOR CONDUCTING ANNUAL TEACHER AND PRINCIPAL EVALUATIONS OF TEACHERS AND PRINCIPALS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 3012-D OF THE EDUCATION LAW AND THAT HAVE LOST AID PURSUANT TO CHAPTER 61 OF THE LAWS OF 2015 AND CHAPTER 53 OF THE LAWS OF 2016 SHALL

1 RECEIVE A SUPPLEMENTAL APPORTIONMENT IN AN
2 AMOUNT THAT IS THE EQUIVALENT TO THE LOSS
3 IN AID DUE TO THE SCHOOL DISTRICTS FAILURE
4 TO HAVE AN APPROVED ANNUAL TEACHER AND
5 PRINCIPAL EVALUATION PLAN CONSISTENT WITH
6 THE REQUIREMENTS OF SECTION 3012-D OF THE
7 EDUCATION LAW BY SEPTEMBER 1 OF THE
8 CURRENT SCHOOL YEAR.

9 NOTWITHSTANDING ANY INCONSISTENT PROVISION
10 OF LAW, NO SCHOOL DISTRICT SHALL BE ELIGI-
11 BLE FOR AN APPORTIONMENT OF SUPPLEMENTAL
12 GENERAL SUPPORT FOR PUBLIC SCHOOLS FROM
13 THE FUNDS APPROPRIATED FOR THE 2016-17
14 SCHOOL YEAR IN EXCESS OF THE AMOUNT APPOR-
15 TIONED TO SUCH SCHOOL DISTRICT IN THE BASE
16 YEAR, AS DEFINED IN SUBDIVISION 1 OF
17 SECTION 3602 OF THE EDUCATION LAW, UNLESS
18 SUCH SCHOOL DISTRICT HAS SUBMITTED
19 DOCUMENTATION THAT HAS BEEN APPROVED BY
20 THE COMMISSIONER OF EDUCATION BY DECEMBER
21 31 OF THE CURRENT YEAR DEMONSTRATING THAT
22 IT HAS FULLY IMPLEMENTED THE STANDARDS AND
23 PROCEDURES FOR CONDUCTING ANNUAL TEACHER
24 AND PRINCIPAL EVALUATIONS OF TEACHERS AND
25 PRINCIPALS IN ACCORDANCE WITH THE REQUIRE-
26 MENTS OF SECTION 3012-D OF THE EDUCATION
27 LAW AND THE REGULATIONS ISSUED BY THE
28 COMMISSIONER. PROVIDED FURTHER THAT ANY
29 APPORTIONMENT WITHHELD PURSUANT TO THIS
30 APPROPRIATION SHALL NOT OCCUR PRIOR TO
31 APRIL 1 OF THE CURRENT YEAR AND SHALL NOT
32 HAVE ANY EFFECT ON THE BASE YEAR CALCU-
33 LATION FOR USE IN THE SUBSEQUENT SCHOOL
34 YEAR 2,466,000,000
35 -----

36 S 3. This act shall take effect immediately; provided, however that
37 the provisions of section two of this act shall be deemed to have been
38 in full force and effect on and after April 1, 2016.

39 PART E

40 Section 1. Statement of legislative findings and necessity. The legis-
41 lature hereby finds that for three decades beginning in 1979, following
42 a strike by school bus workers, the school bus contracts of the board of
43 education of the city of New York included employee protection
44 provisions requiring transportation contractors, among other things, to
45 give priority in hiring to employees who became unemployed because of
46 their employers' loss of bus contract work for such board and to pay
47 such employees the same wages and benefits they had received prior to
48 becoming unemployed.

49 Following the 2011 decision by the New York State Court of Appeals in
50 L&M BUS CORP., ET AL., V. THE NEW YORK CITY DEPARTMENT OF EDUCATION, ET
51 AL., the board of education of the city of New York did not include the
52 employee protection provisions that had been part of the board's school
53 bus contracts for over 30 years or any similar provisions in its solici-

itations for its school bus contracts. After the issuance of the first such Post-L&M solicitation; there was a school bus strike in January and February of 2013. During this strike, many children were either unable to attend school or were burdened, along with their families, with finding alternative modes of transportation in the heart of winter.

The legislature further finds that the board of education of the city of New York contracts with 62 companies to provide vital school bus transportation to 149,000 school-age children. Pursuant to the education law, the state reimburses the board of education of the city of New York for a substantial percentage of its school bus contract expenditures.

Accordingly, the legislature finds that the education law should be amended to require the board of education of the city of New York to include important employee protections in its procurements for school bus transportation contracts and to authorize the board of education to amend existing contracts to include these protections. Including these protections in such board's contracts will aid in avoiding service disruptions and pension withdrawal liability claims, while protecting the experienced school bus contract workforce from significant wage and benefit reductions and facilitating the retention of an experienced workforce. Inclusion of such protections will secure more cost-effective, higher quality and efficient procurement and performance of school bus transportation services.

S 2. Paragraph a of subdivision 14 of section 305 of the education law, as amended by chapter 273 of the laws of 1999, is amended to read as follows:

a. (1) All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his OR HER opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his OR HER opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation

1 of pupils or a contract for mobile instructional units, if such award is
2 based on an evaluation of proposals in response to a request for
3 proposals pursuant to paragraph e of this subdivision. The requirement
4 for competitive bidding shall not apply to annual, biennial, or trienni-
5 al extensions of a contract nor shall the requirement for competitive
6 bidding apply to quadrennial or quinquennial year extensions of a
7 contract involving transportation of pupils, maintenance of school buses
8 or mobile instructional units secured either through competitive bidding
9 or through evaluation of proposals in response to a request for
10 proposals pursuant to paragraph e of this subdivision, when such exten-
11 sions [(1)] (I) are made by the board of education or the trustee of a
12 district, under rules and regulations prescribed by the commissioner,
13 and, [(2)] (II) do not extend the original contract period beyond five
14 years from the date cafeteria and restaurant service commenced there-
15 under and in the case of contracts for the transportation of pupils, for
16 the maintenance of school buses or for mobile instructional units, that
17 such contracts may be extended, except that power is hereby vested in
18 the commissioner, in addition to his OR HER existing statutory authority
19 to approve or disapprove transportation or maintenance contracts, [(i)]
20 (A) to reject any extension of a contract beyond the initial term there-
21 of if he OR SHE finds that amount to be paid by the district to the
22 contractor in any year of such proposed extension fails to reflect any
23 decrease in the regional consumer price index for the N.Y.,
24 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
25 ers (CPI-U) during the preceding twelve month period, OR FOR ALL
26 CONTRACTS FOR SCHOOL BUSES USED FOR THE TRANSPORTATION OF SCHOOL CHIL-
27 DREN, MAINTENANCE, AND ALL CONTRACTS FOR MOBILE INSTRUCTIONAL UNITS, IF
28 THE AMOUNT TO BE PAID BY THE DISTRICT TO THE CONTRACTOR IN ANY YEAR OF
29 SUCH PROPOSED EXTENSION FAILS TO REFLECT ANY PERCENTAGE DECREASE IN THE
30 EMPLOYMENT COST INDEX (ECI) FOR TOTAL COMPENSATION FOR PRIVATE INDUSTRY
31 WORKERS IN THE NORTHEAST REGION (NOT SEASONALLY ADJUSTED) FOR THE FOURTH
32 QUARTER OF THE PRECEDING YEAR; [and (ii)] (B) to reject any extension of
33 a contract after ten years from the date transportation or maintenance
34 service commenced thereunder, or mobile instructional units were first
35 provided, if in his OR HER opinion, the best interests of the district
36 will be promoted thereby. Upon such rejection of any proposed extension,
37 the commissioner may order the board of education or trustee of the
38 district to seek, obtain and consider bids pursuant to the provisions of
39 this section; AND (C) TO REJECT ANY EXTENSION OF A CONTRACT FOR TRANS-
40 PORTATION, OR NEW CONTRACT, IF HE OR SHE FINDS THAT THE AMOUNT TO BE
41 PAID BY THE DISTRICT TO THE CONTRACTOR IN ANY YEAR OF SUCH PROPOSED
42 CONTRACT FAILS TO REFLECT THE SAVINGS REALIZED FROM THE SALES TAX
43 EXEMPTION ON SCHOOL BUSES, PARTS, EQUIPMENT, LUBRICANTS AND FUEL USED
44 FOR SCHOOL PURPOSES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A)
45 OF SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX LAW. The board of education
46 or the trustee of a school district electing to extend a contract as
47 provided herein, may, in its discretion, increasethe amount to be paid
48 in each year of the contract extension by an amount not to exceed the
49 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
50 N.J. area, based upon the index for all urban consumers (CPI-U), during
51 the preceding twelve month period, OR FOR ALL CONTRACTS FOR SCHOOL BUSES
52 USED FOR THE TRANSPORTATION OF SCHOOL CHILDREN, MAINTENANCE, AND ALL
53 CONTRACTS FOR MOBILE INSTRUCTIONAL UNITS, BY AN AMOUNT NOT TO EXCEED THE
54 PERCENTAGE INCREASE IN THE EMPLOYMENT COST INDEX (ECI) TOTAL COMPEN-
55 SATION FOR PRIVATE INDUSTRY WORKERS IN THE NORTHEAST REGION (NOT
56 SEASONALLY ADJUSTED) FOR THE FOURTH QUARTER OF THE PRECEDING YEAR,

1 provided it has been satisfactorily established by the contractor that
2 there has been at least an equivalent increase in the amount of his OR
3 HER cost of operation, during the period of the contract.

4 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, THE BOARD
5 OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A CITY WITH AT LEAST ONE
6 MILLION INHABITANTS SHALL INCLUDE IN CONTRACTS FOR THE TRANSPORTATION OF
7 SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, WHETHER AWARDED
8 THROUGH COMPETITIVE BIDDING OR THROUGH EVALUATION OF PROPOSALS IN
9 RESPONSE TO A REQUEST FOR PROPOSALS PURSUANT TO PARAGRAPH E OF THIS
10 SUBDIVISION, PROVISIONS FOR THE RETENTION OR PREFERENCE IN HIRING OF
11 SCHOOL BUS WORKERS AND FOR THE PRESERVATION OF WAGES, HEALTH, WELFARE
12 AND RETIREMENT BENEFITS AND SENIORITY FOR SCHOOL BUS WORKERS WHO ARE
13 HIRED PURSUANT TO SUCH PROVISIONS FOR RETENTION OR PREFERENCE IN HIRING,
14 IN CONNECTION WITH SUCH CONTRACTS. FOR PURPOSES OF THIS SUBPARAGRAPH,
15 "SCHOOL BUS WORKER" SHALL MEAN AN OPERATOR, MECHANIC, DISPATCHER OR
16 ATTENDANT WHO: (I) WAS EMPLOYED AS OF JUNE THIRTIETH, TWO THOUSAND TEN
17 OR AT ANY TIME THEREAFTER BY (A) A CONTRACTOR THAT WAS A PARTY TO A
18 CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A
19 CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE TRANSPORTATION OF
20 SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, IN CONNECTION WITH
21 SUCH CONTRACT, OR (B) A SUBCONTRACTOR OF A CONTRACTOR THAT WAS A PARTY
22 TO A CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL DISTRICT LOCATED
23 IN A CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE TRANSPORTATION
24 OF SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, IN CONNECTION
25 WITH SUCH CONTRACT, AND (II) HAS BEEN FURLOUGHED OR BECOME UNEMPLOYED AS
26 A RESULT OF A LOSS OF SUCH CONTRACT, OR A PART OF SUCH CONTRACT, BY SUCH
27 CONTRACTOR OR SUCH SUBCONTRACTOR, OR AS A RESULT OF A REDUCTION IN
28 SERVICE DIRECTED BY SUCH BOARD OF EDUCATION DURING THE TERM OF SUCH
29 CONTRACT.

30 S 3. Paragraph c of subdivision 14 of section 305 of the education
31 law, as amended by chapter 15 of the laws of 2005, is amended to read as
32 follows:

33 c. Each board of education, or the trustees, of a school district
34 which elected or elects to extend one or more pupil transportation
35 contracts may extend a contract in an amount which is in excess of the
36 maximum increase allowed by use of the [CPI] ECI referenced in paragraph
37 a of this subdivision. Such excess amount shall not be greater than the
38 sum of the following: (i) the sum of the actual cost of qualifying crim-
39 inal history and driver licensing testing fees attributable to special
40 requirements for drivers of school buses pursuant to articles nineteen
41 and nineteen-A of the vehicle and traffic law plus the actual cost of
42 any diagnostic tests and physical performance tests that are deemed to
43 be necessary by an examining physician or the chief school officer to
44 determine whether an applicant to drive a school bus under the terms of
45 the contract has the physical and mental ability to operate a school
46 transportation conveyance and to satisfactorily perform the other
47 responsibilities of a school bus driver pursuant to regulations of the
48 commissioner; (ii) in a school district located in a city with at least
49 one million inhabitants, the actual cost of clean air technology filters
50 and Global Positioning System (GPS) technology; (iii) in a school
51 district located in a city with at least one million inhabitants, with
52 respects only to any extension beginning in fiscal year two thousand
53 five--two thousand six, the sum of the actual cost of providing school
54 bus attendants including the actual cost of criminal history record
55 checks for school bus attendant applicants and training and instruction
56 for school bus attendants pursuant to section twelve hundred twenty-

1 nine-d of the vehicle and traffic law plus up to five percent of such
2 cost for necessary administrative services; and (iv) the actual cost of
3 equipment or vehicle modification, or training required, by any state or
4 local legislation or regulation promulgated or effective on or after
5 June first, two thousand five. Such costs shall be approved by the
6 commissioner upon documentation provided by the school district and
7 contractor as required by the commissioner.

8 S 4. Subdivision 14 of section 305 of the education law is amended by
9 adding a new paragraph g to read as follows:

10 G. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS A THROUGH F OF THIS
11 SUBDIVISION AND ANY REGULATION PROMULGATED PURSUANT THERETO, THE BOARD
12 OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A CITY WITH AT LEAST ONE
13 MILLION INHABITANTS AND A CONTRACTOR PROVIDING TRANSPORTATION SERVICES
14 TO SUCH DISTRICT FOR SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE
15 TWELVE MAY AMEND A CONTRACT WITH MUTUAL CONSENT FOR SUCH TRANSPORTATION
16 SERVICES, FOR SUCH CONSIDERATION AS APPROVED BY SUCH BOARD OF EDUCATION,
17 TO INCLUDE IN SUCH CONTRACT PROVISIONS FOR THE RETENTION OR PREFERENCE
18 IN HIRING OF SCHOOL BUS WORKERS AND FOR THE PRESERVATION OF WAGES,
19 HEALTH, WELFARE AND RETIREMENT BENEFITS AND SENIORITY FOR SCHOOL BUS
20 WORKERS WHO ARE HIRED PURSUANT TO SUCH PROVISIONS FOR RETENTION OR PREF-
21 ERENCE IN HIRING, IN CONNECTION WITH SUCH CONTRACTS. FOR PURPOSES OF
22 THIS PARAGRAPH, "SCHOOL BUS WORKER" SHALL MEAN AN OPERATOR, MECHANIC,
23 DISPATCHER OR ATTENDANT WHO: (1) WAS EMPLOYED AS OF JUNE THIRTIETH, TWO
24 THOUSAND TEN OR AT ANY TIME THEREAFTER BY (I) A CONTRACTOR THAT WAS A
25 PARTY TO A CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL DISTRICT
26 LOCATED IN A CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE TRANS-
27 PORTATION OF SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, IN
28 CONNECTION WITH SUCH CONTRACT, OR (II) A SUBCONTRACTOR OF A CONTRACTOR
29 THAT WAS A PARTY TO A CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL
30 DISTRICT LOCATED IN A CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE
31 TRANSPORTATION OF SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE,
32 IN CONNECTION WITH SUCH CONTRACT, AND (2) HAS BEEN FURLOUGHED OR BECOME
33 UNEMPLOYED AS A RESULT OF A LOSS OF SUCH CONTRACT, OR A PART OF SUCH
34 CONTRACT, BY SUCH CONTRACTOR OR SUCH SUBCONTRACTOR, OR AS THE RESULT OF
35 A REDUCTION IN SERVICE DIRECTED BY SUCH BOARD OF EDUCATION DURING THE
36 TERM OF SUCH CONTRACT.

37 S 5. Subdivision (a) of section 1115 of the tax law is amended by
38 adding a new paragraph 44 to read as follows:

39 (44) SCHOOL BUSES AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED
40 FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW, AND PARTS, EQUIPMENT, LUBRI-
41 CANTS AND FUEL PURCHASED AND USED IN THEIR OPERATION.

42 S 6. Separability. If any item, clause, subparagraph, paragraph,
43 subdivision or section of this act shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect,
45 impair or invalidate the remainder thereof, but shall be confined in its
46 operation to this item, clause, subparagraph, paragraph, subdivision or
47 section thereof that was adjudged to be invalid.

48 S 7. This act shall take effect immediately; provided, however, that
49 the provisions of section five of this act shall take effect on the
50 first day of a quarterly sales tax period, as set forth in subdivision
51 (b) of section 1136 of the tax law, next succeeding April 1, 2017.

52 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
53 sion, section or part of this act shall be adjudged by any court of
54 competent jurisdiction to be invalid, such judgment shall not affect,
55 impair, or invalidate the remainder thereof, but shall be confined in
56 its operation to the clause, sentence, paragraph, subdivision, section

1 or part thereof directly involved in the controversy in which such judg-
2 ment shall have been rendered. It is hereby declared to be the intent of
3 the legislature that this act would have been enacted even if such
4 invalid provisions had not been included herein.

5 S 3. This act shall take effect immediately; provided, however, that
6 the applicable effective date of Parts A through E of this act shall be
7 as specifically set forth in the last section of such Parts.