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

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:

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

PART A

Section 1. Section 34 of 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, as amended by section 1 of subpart D of part B of chapter 20 of the laws of 2015, is amended to read as follows:

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that sections one through twenty, twenty-four, and twenty-six through thirty of this act shall expire and be deemed repealed [June 30, 2016] JUNE 30, 2019; provided, further, that notwithstanding any provision of article 5 of the general construction law, on [June 30, 2016] JUNE 30,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14, paragraphs b, d, and e of subdivision 15, and subdivisions 17 and 21 of section 2554 of the education law as repealed by section three of this act, subdivision 1 of section 2590-b of the education law as repealed by section six of this act, paragraph (a) of subdivision 2 of section 2590-b of the education law as repealed by section seven of this act, section 2590-c of the education law as repealed by section eight of this act, paragraph c of subdivision 2 of section 2590-d of the education law as repealed by section twenty-six of this act, subdivision 1 of section 2590-e of the education law as repealed by section twenty-seven of this act, subdivision 28 of section 2590-h of the education law as repealed by section twenty-eight of this act, subdivision 30 of section 2590-h of the education law as repealed by section twenty-nine of this act, subdivision 30-a of section 2590-h of the education law as repealed by section thirty of this act shall be revived and be read as such provisions existed in law on the date immediately preceding the effective date of this act;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

S 2. Subdivision 12 of section 17 of 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, as amended by section 2 of subpart D of part B of chapter 20 of the laws of 2015, is amended to read as follows:

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

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

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

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

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

12-A. PROVIDE INFORMATION, DATA, ESTIMATES AND STATISTICS REGARDING ALL MATTERS RELATING TO THE CITY DISTRICT, AS REQUESTED BY MEMBERS AND OFFICERS OF THE SENATE, ASSEMBLY, AND GOVERNOR'S OFFICE, IN A TIMELY FASHION. SUCH INFORMATION SHALL BE MAINTAINED AND UPDATED IN A TIMELY FASHION AND SHALL AT A MINIMUM INCLUDE DATA RELATING TO: (A) NEW YORK CITY DEPARTMENT OF EDUCATION SCHOOL CHARACTERISTICS INCLUDING GRADES SERVED, NUMBER OF TEACHERS, STUDENT ENROLLMENT, SCHOOL TYPE, SCHOOL CHARACTERISTICS, QUALITY REVIEW SCORES, GRADUATION RATES AND AVERAGE CLASS SIZE; (B) NEW YORK CITY DEPARTMENT OF EDUCATION PRINCIPAL CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF EXPERIENCE AND TENURE STATUS; (C) NEW YORK CITY DEPARTMENT OF EDUCATION TEACHER CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF TEACHING EXPERIENCE, TENURE STATUS, SUBJECT AREA TAUGHT, NUMBER OF STUDENTS TAUGHT, NUMBER OF CLASSES TAUGHT PER DAY AND ATTRITION RATE; (D) NEW YORK CITY DEPARTMENT OF EDUCATION STUDENT CHARACTERISTICS INCLUDING GRADE LEVEL, SCHOOL ATTENDANCE, AND OTHER DEMOGRAPHICS; (E) GIFTED AND TALENTED PROGRAMS APPLICATION DATA INCLUDING ADMISSION DECISIONS, STUDENT DEMOGRAPHICS AND STUDENT TEST SCORES; (F) PRE-KINDERGARTEN PROGRAMS INCLUDING PROGRAM LOCATIONS, CAPACITY, STUDENT ENROLLMENT, NUMBER OF TEACHERS, TEACHER CHARACTERISTICS, STUDENT ATTENDANCE, STUDENT DEMOGRAPHICS AND EFFECTIVENESS DATA; (G) FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION SCHOOLS INCLUDING DEPARTMENT FUNDING BY DOLLARS, EXPENDITURES BY CATEGORY AND EXTERNAL FUNDING IN DOLLARS; (H) FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION PROGRAMS INCLUDING DEPARTMENT FUNDING IN DOLLARS, AND EXTERNAL FUNDING IN DOLLARS; AND (I) GENERAL NEW YORK CITY DEPARTMENT OF EDUCATION BUDGET. PROVIDED, HOWEVER, THAT ALL INQUIRIES MADE IN ACCORDANCE WITH THIS SUBDIVISION SHALL COMPLY WITH APPLICABLE STATE AND FEDERAL PRIVACY LAWS.

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

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

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

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

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

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

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

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

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

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

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

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

card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the requests to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART B

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

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

and (iv) individuals who possess exceptional business, professional, artistic, athletic, or military experience, provided, however, that such teachers described in clauses (i), (ii), (iii), and (iv) of this paragraph shall not in total comprise more than the sum of: (A) thirty per centum of the teaching staff of a charter school, or five teachers, whichever is less; plus (B) five teachers of mathematics, science, computer science, technology, or career and technical education; plus (C) five additional teachers. A teacher certified or otherwise approved by the commissioner shall not be included in the numerical limits established by the preceding sentence.

S 2. This act shall take effect immediately.

PART C

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

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

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

"AUTHORIZED CONTRIBUTION";
"CONTRIBUTION";
"EDUCATIONAL PROGRAM";
"EDUCATIONAL SCHOLARSHIP ORGANIZATION";
"ELIGIBLE PUPIL";
"LOCAL EDUCATION FUND";
"NONPUBLIC SCHOOL";
"PUBLIC EDUCATION ENTITY";
"PUBLIC SCHOOL";
"QUALIFIED CONTRIBUTION";
"QUALIFIED EDUCATOR";
"QUALIFIED SCHOOL";
"SCHOLARSHIP"; AND
"SCHOOL IMPROVEMENT ORGANIZATION".

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

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

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

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

(E) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION, THE TAXPAYER SHALL APPLY TO THE DEPARTMENT FOR A CONTRIBUTION AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. SUCH APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLICATIONS ON THE SAME FORM, PROVIDED THAT EACH CONTRIBUTION LISTED ON SUCH APPLICATION SHALL BE TREATED AS A SEPARATE APPLICATION AND THAT THE DEPARTMENT SHALL ISSUE SEPARATE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR EACH SUCH APPLICATION.

(F) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIFICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES IN TWO PHASES. IN PHASE ONE, WHICH BEGINS ON THE FIRST DAY OF JANUARY AND ENDS ON THE THIRTY-FIRST DAY OF JANUARY, THE COMMISSIONER SHALL ACCEPT APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. COMMENCING AFTER THE FIFTH DAY OF FEBRUARY, THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN RECEIVED DURING PHASE ONE EXCEEDS THE AMOUNT OF THE CREDIT CAP IN SUBDIVISION (H) OF THIS SECTION, THEN PHASE ONE OF THE CREDIT CAP APPLICATION SHALL BE ALLOCATED IN TWO STEPS. IN STEP ONE, THE ALLOCATION SHALL EQUAL THE CONTRIBUTION CAP DIVIDED BY THE TOTAL NUMBER OF APPLICATIONS FOR CONTRIBUTIONS, ROUNDED DOWN TO THE NEAREST CENT. EACH APPLICATION REQUESTING AN AMOUNT WHICH IS LESS THAN OR EQUAL TO THE ALLOCATION IN STEP ONE SHALL RECEIVE THE AMOUNT ON THEIR APPLICATION FOR CONTRIBUTION AND THE DIFFERENCE, WHICH SHALL BE REFERRED TO AS "EXCESS DISTRIBUTIONS" FOR THE PURPOSES OF THIS SUBDIVISION, SHALL BE AVAILABLE FOR ALLOCATION IN STEP TWO. EACH APPLICATION REQUESTING AN AMOUNT WHICH EXCEEDS THE ALLOCATION IN STEP ONE SHALL BE ALLOCATED CREDITS IN STEP TWO. IN STEP TWO, IF EXCESS DISTRIBUTIONS EQUAL ZERO THEN EACH APPLICATION SHALL RECEIVE THE ALLOCATION AMOUNT FROM STEP ONE, OTHERWISE EACH APPLICATION SHALL RECEIVE AN AMOUNT EQUAL TO THE SUM OF THE (I) THE ALLOCATION AMOUNT IN STEP ONE AND (II) A PRO RATA SHARE OF AGGREGATE EXCESS DISTRIBUTIONS BASED ON THE DIFFERENCE BETWEEN THE AMOUNT ON THEIR APPLICATION FOR CONTRIBUTION AND THE ALLOCATION IN STEP ONE. FOR THE PURPOSES OF THIS SUBDIVISION, MULTIPLE APPLICATIONS BY THE SAME TAXPAYER SHALL BE TREATED AS ONE APPLICATION. IF THE CREDIT CAP IS NOT EXCEEDED, PHASE TWO COMMENCES ON FEBRUARY TWENTIETH AND ENDS ON OCTOBER THIRTY-FIRST. DURING PHASE TWO THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIFICATES ON A FIRST-COME FIRST SERVE BASIS BASED UPON THE DATE THE DEPARTMENT RECEIVED THE TAXPAYER'S APPLICATION FOR SUCH CERTIFICATE. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE ONE SHALL BE MAILED NO LATER THAN THE TWENTIETH DAY OF FEBRUARY. CONTRIBUTION AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING PHASE TWO SHALL BE MAILED WITHIN FIVE DAYS OF RECEIPT OF SUCH APPLICATIONS.

2. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTION LISTED ON THE 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-

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

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

6. FAILURE TO NOTIFY THE DEPARTMENT. WITHIN THIRTY DAYS OF THE DISCOVERY OF THE FAILURE OF ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT PROGRAM, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION TO COMPLY WITH THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE OF COMPLIANCE FAILURE TO SUCH ENTITY, PROGRAM, FUND, OR ORGANIZATION. SUCH ENTITY, PROGRAM, FUND, OR ORGANIZATION SHALL HAVE THIRTY DAYS FROM THE DATE OF SUCH NOTICE TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION. SUCH PERIOD MAY BE EXTENDED FOR AN ADDITIONAL THIRTY DAYS UPON THE REQUEST OF THE ENTITY, PROGRAM, FUND, OR ORGANIZATION. UPON THE EXPIRATION OF PERIOD FOR COMPLIANCE SET FORTH IN THE NOTICE PRESCRIBED BY THIS PARAGRAPH, THE COMMISSIONER SHALL NOTIFY THE BOARD OF REGENTS AND THE COMMISSIONER OF EDUCATION THAT SUCH ENTITY, PROGRAM, FUND, OR ORGANIZATION FAILED TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FOUR AND FIVE OF THIS SUBDIVISION.

(H) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS FOR CALENDAR YEAR TWO THOUSAND SEVENTEEN SHALL BE ONE HUNDRED FIFTY MILLION DOLLARS. IN CALENDAR YEAR TWO THOUSAND EIGHTEEN, THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION AVAILABLE TO ALL TAXPAYERS SHALL BE TWO HUNDRED TWENTY-FIVE MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED TO THE CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. FOR CALENDAR YEAR TWO THOUSAND NINETEEN AND EACH CALENDAR YEAR THEREAFTER, THE MAXIMUM PERMITTED CREDITS AVAILABLE TO ALL TAXPAYERS SHALL BE THREE HUNDRED MILLION DOLLARS PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED TO THE CAP PURSUANT TO SUBDIVISION (I) OF THIS SECTION. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION FOR QUALIFIED CONTRIBUTIONS SHALL BE ALLOCATED FIFTY PERCENT TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT TO EDUCATIONAL SCHOLARSHIP ORGANIZATIONS.

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

(J) REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

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

ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE EDUCATION INVESTMENT TAX CREDIT. SUCH REPORT SHALL CONTAIN INFORMATION FOR ARTICLES NINE-A AND TWENTY-TWO, RESPECTIVELY, REGARDING: (I) THE NUMBER OF APPLICATIONS RECEIVED; (II) THE NUMBER OF AND AGGREGATE VALUE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND SCHOLARSHIP ORGANIZATIONS, RESPECTIVELY; (III) THE GEOGRAPHICAL DISTRIBUTION BY COUNTY OF (A) THE APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES, DISTRIBUTION BY COUNTY OF (B) THE PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS LISTED ON THE ISSUED CONTRIBUTION AUTHORIZATION CERTIFICATES; AND (IV) INFORMATION, INCLUDING GEOGRAPHICAL DISTRIBUTION BY COUNTY, OF THE NUMBER OF ELIGIBLE PUPILS THAT RECEIVED SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS ATTENDED BY ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE AVERAGE VALUE OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE COMMISSIONER AND DESIGNATED EMPLOYEES OF THE DEPARTMENT, THE BOARD OF REGENTS, THE COMMISSIONER OF EDUCATION AND DESIGNATED EMPLOYEES OF THE STATE EDUCATION DEPARTMENT, SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED FOR APPROVAL TO BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS; AND THE PUBLIC EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM APPLICATION FORMS AND REPORTS SUBMITTED TO THE EDUCATION DEPARTMENT OR BOARD OF REGENTS.

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

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

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

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

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

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

49. EDUCATION INVESTMENT TAX CREDIT. (A) 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.

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

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

(XLIII) EDUCATION INVESTMENT TAX CREDIT UNDER SUBSECTION (CCC)	AMOUNT OF CREDIT UNDER SUBDIVISION 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 THIRTY-TWO 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.

6. "LOCAL EDUCATION FUND" 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) IS ESTABLISHED FOR THE PURPOSE OF SUPPORTING AN EDUCATIONAL PROGRAM IN AT LEAST ONE PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT, (C) USES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED TO SUPPORT, AND (D) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE.

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

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

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

10. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY A TAXPAYER TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT IS LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER AND FOR WHICH THE TAXPAYER HAS RECEIVED A CERTIFICATE OF RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION. A CONTRIBUTION DOES NOT QUALIFY IF THE TAXPAYER DESIGNATES THE TAXPAYER'S CONTRIBUTION TO AN ENTITY OR ORGANIZATION FOR THE DIRECT BENEFIT OF ANY PARTICULAR OR SPECIFIED STUDENT.

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

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

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

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

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

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

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

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

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

S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE BOARD OF REGENTS, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS VIOLATED THIS ARTICLE OR SECTION FORTY-THREE OF THE TAX LAW. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY OF THE FOLLOWING: (A) FAILURE TO MEET THE REQUIREMENTS OF THIS ARTICLE OR SECTION FORTY-THREE OF THE TAX LAW, (B) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (C) THE FAILURE TO SUPPLY SUCH RECORDS TO THE COMMISSIONER, DEPARTMENT OF TAXATION AND FINANCE OR BOARD OF REGENTS WHEN REQUESTED BY THE DEPARTMENT OR BOARD, OR (D) THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE OF THE ISSUANCE OR NONISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION FORTY-THREE OF THE TAX LAW; PROVIDED HOWEVER, THAT THE BOARD OF REGENTS SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION BASED UPON A VIOLATION OF THE TAX LAW UNLESS THE COMMISSIONER OF TAXATION AND FINANCE AGREES THAT REVOCATION IS WARRANTED; AND PROVIDED FURTHER THAT THE BOARD SHALL NOT REVOKE APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO COMPLY IS DUE TO CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISREGARD FOR THE LAW. WITHIN FIVE DAYS OF THE DETERMINATION REVOKING APPROVAL, THE BOARD SHALL PROVIDE NOTICE OF SUCH REVOCATION TO THE EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT AND TO THE DEPARTMENT OF TAXATION AND FINANCE.

S 1215. RECORDKEEPING. EACH SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT THAT ISSUED AT LEAST ONE CERTIFICATE OF RECEIPT SHALL MAINTAIN RECORDS INCLUDING (A) NOTIFICATIONS RECEIVED FROM THE DEPARTMENT OF TAXATION AND FINANCE, (B) NOTIFICATIONS MADE TO THE DEPARTMENT OF TAXATION AND FINANCE, (C) COPIES OF QUALIFIED CONTRIBUTIONS RECEIVED, (D) COPIES OF THE DEPOSIT OF SUCH QUALIFIED CONTRIBUTIONS, (E) COPIES OF ISSUED CERTIFICATES OF RECEIPT, (F) ANNUAL FINANCIAL STATEMENTS, (G) IN THE CASE OF SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZATIONS AND LOCAL EDUCATION FUNDS, THE APPLICATION SUBMITTED PURSUANT TO SECTION TWELVE HUNDRED TWELVE OF THIS ARTICLE AND THE APPROVAL ISSUED BY THE BOARD OF REGENTS, AND (H) ANY OTHER INFORMATION AS PRESCRIBED BY REGULATION PROMULGATED BY THE COMMISSIONER OR RULE PROMULGATED BY THE BOARD OF REGENTS.

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

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

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

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

RECEIVE A SUPPLEMENTAL APPORTIONMENT IN AN AMOUNT THAT IS THE 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 SECTION 3012-D OF THE EDUCATION LAW BY SEPTEMBER 1 OF THE CURRENT SCHOOL YEAR.

NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, NO SCHOOL DISTRICT SHALL BE ELIGIBLE FOR AN APPORTIONMENT OF SUPPLEMENTAL GENERAL SUPPORT FOR PUBLIC SCHOOLS FROM THE FUNDS APPROPRIATED FOR THE 2016-17 SCHOOL YEAR IN EXCESS OF THE AMOUNT APPORTIONED TO SUCH SCHOOL DISTRICT IN THE BASE YEAR, AS DEFINED IN SUBDIVISION 1 OF SECTION 3602 OF THE EDUCATION LAW, UNLESS SUCH SCHOOL DISTRICT HAS SUBMITTED DOCUMENTATION THAT HAS BEEN APPROVED BY THE COMMISSIONER OF EDUCATION BY DECEMBER 31 OF THE CURRENT YEAR DEMONSTRATING THAT IT HAS FULLY IMPLEMENTED THE 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 THE REGULATIONS ISSUED BY THE COMMISSIONER. PROVIDED FURTHER THAT ANY APPORTIONMENT WITHHELD PURSUANT TO THIS APPROPRIATION SHALL NOT OCCUR PRIOR TO APRIL 1 OF THE CURRENT YEAR AND SHALL NOT HAVE ANY EFFECT ON THE BASE YEAR CALCULATION FOR USE IN THE SUBSEQUENT SCHOOL YEAR 2,466,000,000

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

PART E

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

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

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

of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions [(1)] (I) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, [(2)] (II) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his OR HER existing statutory authority to approve or disapprove transportation or maintenance contracts, [(i)] (A) to reject any extension of a contract beyond the initial term thereof if he OR SHE finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period, OR FOR ALL CONTRACTS FOR SCHOOL BUSES USED FOR THE TRANSPORTATION OF SCHOOL CHILDREN, MAINTENANCE, AND ALL CONTRACTS FOR MOBILE INSTRUCTIONAL UNITS, IF THE AMOUNT TO BE PAID BY THE DISTRICT TO THE CONTRACTOR IN ANY YEAR OF SUCH PROPOSED EXTENSION FAILS TO REFLECT ANY PERCENTAGE DECREASE IN THE EMPLOYMENT COST INDEX (ECI) FOR TOTAL COMPENSATION FOR PRIVATE INDUSTRY WORKERS IN THE NORTHEAST REGION (NOT SEASONALLY ADJUSTED) FOR THE FOURTH QUARTER OF THE PRECEDING YEAR; [and (ii)] (B) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his OR HER opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section; AND (C) TO REJECT ANY EXTENSION OF A CONTRACT FOR TRANSPORTATION, OR NEW CONTRACT, IF HE OR SHE FINDS THAT THE AMOUNT TO BE PAID BY THE DISTRICT TO THE CONTRACTOR IN ANY YEAR OF SUCH PROPOSED CONTRACT FAILS TO REFLECT THE SAVINGS REALIZED FROM THE SALES TAX EXEMPTION ON SCHOOL BUSES, PARTS, EQUIPMENT, LUBRICANTS AND FUEL USED FOR SCHOOL PURPOSES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX LAW. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, OR FOR ALL CONTRACTS FOR SCHOOL BUSES USED FOR THE TRANSPORTATION OF SCHOOL CHILDREN, MAINTENANCE, AND ALL CONTRACTS FOR MOBILE INSTRUCTIONAL UNITS, BY AN AMOUNT NOT TO EXCEED THE PERCENTAGE INCREASE IN THE EMPLOYMENT COST INDEX (ECI) TOTAL COMPENSATION FOR PRIVATE INDUSTRY WORKERS IN THE NORTHEAST REGION (NOT SEASONALLY ADJUSTED) FOR THE FOURTH QUARTER OF THE PRECEDING YEAR,

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

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

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

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

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

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

G. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS A THROUGH F OF THIS SUBDIVISION AND ANY REGULATION PROMULGATED PURSUANT THERETO, THE BOARD OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A CITY WITH AT LEAST ONE MILLION INHABITANTS AND A CONTRACTOR PROVIDING TRANSPORTATION SERVICES TO SUCH DISTRICT FOR SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE MAY AMEND A CONTRACT WITH MUTUAL CONSENT FOR SUCH TRANSPORTATION SERVICES, FOR SUCH CONSIDERATION AS APPROVED BY SUCH BOARD OF EDUCATION, TO INCLUDE IN SUCH CONTRACT PROVISIONS FOR THE RETENTION OR PREFERENCE IN HIRING OF SCHOOL BUS WORKERS AND FOR THE PRESERVATION OF WAGES, HEALTH, WELFARE AND RETIREMENT BENEFITS AND SENIORITY FOR SCHOOL BUS WORKERS WHO ARE HIRED PURSUANT TO SUCH PROVISIONS FOR RETENTION OR PREFERENCE IN HIRING, IN CONNECTION WITH SUCH CONTRACTS. FOR PURPOSES OF THIS PARAGRAPH, "SCHOOL BUS WORKER" SHALL MEAN AN OPERATOR, MECHANIC, DISPATCHER OR ATTENDANT WHO: (1) WAS EMPLOYED AS OF JUNE THIRTIETH, TWO THOUSAND TEN OR AT ANY TIME THEREAFTER BY (I) A CONTRACTOR THAT WAS A PARTY TO A CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, IN CONNECTION WITH SUCH CONTRACT, OR (II) A SUBCONTRACTOR OF A CONTRACTOR THAT WAS A PARTY TO A CONTRACT WITH THE BOARD OF EDUCATION OF A SCHOOL DISTRICT LOCATED IN A CITY WITH AT LEAST ONE MILLION INHABITANTS FOR THE TRANSPORTATION OF SCHOOL CHILDREN IN KINDERGARTEN THROUGH GRADE TWELVE, IN CONNECTION WITH SUCH CONTRACT, AND (2) HAS BEEN FURLOUGHED OR BECOME UNEMPLOYED AS A RESULT OF A LOSS OF SUCH CONTRACT, OR A PART OF SUCH CONTRACT, BY SUCH CONTRACTOR OR SUCH SUBCONTRACTOR, OR AS THE RESULT OF A REDUCTION IN SERVICE DIRECTED BY SUCH BOARD OF EDUCATION DURING THE TERM OF SUCH CONTRACT.

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

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

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

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

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

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

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