

DRAFT LBDC

A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the state finance law, in relation to establishing the charitable gifts trust fund and the health charitable account, and the elementary and secondary education charitable account; to amend the tax law, in relation to credits for contributions to accounts in the charitable gifts trust fund; to amend the education law and the general municipal law, in relation to authorizing school districts, counties and New York city to establish charitable funds; and to amend the real property tax law, in relation to authorizing such localities to provide a credit against real property taxes for such contributions (Part);

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 PART ____

2 Section 1. The state finance law is amended by adding a new section
3 92-gg to read as follows:

4 § 92-gg. Charitable gifts trust fund. 1. There is hereby established
5 in the joint custody of the commissioner of taxation and finance and the
6 state comptroller a special fund pursuant to section eleven of this
7 chapter to be known as the "charitable gifts trust fund".

8 2. Moneys in the charitable gifts trust fund shall be kept separate
9 from and shall not be commingled with any other moneys in the custody of
10 the comptroller or the commissioner of taxation and finance. Provided,
11 however that any moneys of the fund not required for immediate use may,
12 at the discretion of the comptroller, in consultation with the director
13 of the budget, be invested by the comptroller in obligations of the

1 United States or the state. The proceeds of any such investment shall be
2 retained by the fund as assets to be used for purposes of the fund.

3 3. Except as set forth in subdivisions two and four of this section,
4 no moneys from the charitable gifts trust fund shall be transferred to
5 any other fund, nor shall moneys from the fund be used to make payments
6 for any purpose other than the purposes set forth in subdivisions two
7 and four of this section.

8 4. The charitable gifts trust fund shall have two separate and
9 distinct accounts, as set forth in paragraphs a and b of this subdivi-
10 sion. Moneys in each of the accounts shall be kept separate from and
11 shall not be commingled with any other moneys of any other account with-
12 in the fund.

13 a. The "health charitable account" shall consist of grants, gifts or
14 bequests received by the state, and all other moneys credited or trans-
15 ferred thereto from any other fund or source. Moneys of such account
16 shall only be expended for the support of services relating to primary,
17 preventive, and inpatient health care, routine dental and vision care,
18 hunger prevention and nutritional assistance, and other services
19 provided to New York state residents with the overall goal of ensuring
20 that New York state residents have access to quality health care and
21 other related services.

22 b. The "elementary and secondary education charitable account" shall
23 consist of grants, gifts or bequests received by the state for the
24 support of elementary and secondary education for children in the state
25 and all other moneys credited or transferred thereto from any other fund
26 or source. Moneys of such account shall only be expended for the
27 provision of elementary and secondary education for children in the
28 state.

1 § 2. Section 606 of the tax law is amended by adding a new subsection
2 (iii) to read as follows:

3 (iii) Credit for contributions to certain funds. For taxable years
4 beginning on or after January first, two thousand nineteen, an individ-
5 ual taxpayer shall be allowed a credit against the tax imposed under
6 this article for an amount equal to eighty-five percent of the amount
7 contributed by the taxpayer during the immediately preceding taxable
8 year to any or all of the following accounts within the charitable gifts
9 trust fund set forth in section ninety-two-gg of the state finance law:
10 the health charitable account established by paragraph a of subdivision
11 four of section ninety-two-gg of the state finance law, or the elementa-
12 ry and secondary education charitable account established by paragraph b
13 of subdivision four of section ninety-two-gg of the state finance law.

14 § 3. Section 1604 of the education law is amended by adding a new
15 subdivision 44 to read as follows:

16 44. To establish a charitable fund, by resolution of the trustees, to
17 receive charitable monetary donations made to such fund for use by the
18 district for general educational purposes. The monies of such charitable
19 fund shall be deposited and secured in the manner provided by section
20 ten of the general municipal law. The monies of such charitable fund may
21 be invested in the manner provided by section eleven of the general
22 municipal law. Any interest earned or capital gain realized on the
23 money so invested shall accrue to and become part of such fund. At such
24 time and in such amounts as determined by the trustees, the monies of
25 such charitable fund shall be transferred to the school district's
26 general fund for expenditure consistent with the charitable purposes of
27 the fund, provided that the amount of taxes to be levied by the school
28 district for any school year shall be determined without regard to any

1 such transfer. The school district shall maintain an accounting of all
2 such deposits, interest or capital gain, transfers, and expenditures.

3 § 4. Section 1709 of the education law is amended by adding a new
4 subdivision 12-b to read as follows:

5 12-b. To establish a charitable fund, by resolution of the board, to
6 receive charitable monetary donations made to such fund for use by the
7 district for general educational purposes. The monies of such charitable
8 fund shall be deposited and secured in the manner provided by section
9 ten of the general municipal law. The monies of such charitable fund may
10 be invested in the manner provided by section eleven of the general
11 municipal law. Any interest earned or capital gain realized on the
12 money so invested shall accrue to and become part of such fund. At such
13 time and in such amounts as determined by the board, the monies of such
14 charitable fund shall be transferred to the school district's general
15 fund for expenditure consistent with the charitable purposes of the
16 fund, provided that the amount of taxes to be levied by the school
17 district for any school year shall be determined without regard to any
18 such transfer. The school district shall maintain an accounting of all
19 such deposits, interest or capital gain, transfers, and expenditures.

20 § 5. Section 2590-h of the education law is amended by adding a new
21 subdivision 54 to read as follows:

22 54. To establish a charitable fund to receive charitable monetary
23 donations made to such fund for use by the city school district for
24 general educational purposes. The monies of such charitable fund shall
25 be deposited and secured in the manner provided by section ten of the
26 general municipal law. The monies of such charitable fund may be
27 invested in the manner provided by section eleven of the general municipi-
28 pal law. Any interest earned or capital gain realized on the money so

1 invested shall accrue to and become part of such fund. At such time and
2 in such amounts as determined by the chancellor, the monies of such
3 charitable fund shall be transferred to the city school district's
4 general fund for expenditure consistent with the charitable purposes of
5 the fund, provided that the amount of taxes to be levied by the city for
6 any school year shall be determined without regard to any such transfer.
7 The city school district shall maintain an accounting of all such depos-
8 its, interest or capital gain, transfers, and expenditures.

9 § 6. The general municipal law is amended by adding two new sections
10 6-t and 6-u to read as follows:

11 § 6-t. Charitable gifts reserve fund. 1. The governing board of any
12 county or New York city may establish a reserve fund to be known as a
13 charitable gifts reserve fund, the moneys of which are to be used for
14 the payment of health care expenses and may be used to defray the local
15 social services district's yearly net share of medical assistance
16 expenditures.

17 2. Such fund may receive charitable contributions from property owners
18 of the county or New York city.

19 3. The moneys in such fund shall be deposited and secured in the
20 manner provided by section ten of this article. The governing board, or
21 the chief fiscal officer of such county, or New York city, if the
22 governing board shall delegate such duty to him or her, may invest the
23 moneys in such fund in the manner provided by section eleven of this
24 article. Any interest earned or capital gain realized on the money so
25 deposited or invested shall accrue to and become part of such fund. The
26 separate identity of such fund shall be maintained whether its assets
27 consist of cash or investments or both.

1 4. At the end of the fiscal year, the governing board of the county or
2 New York city, within sixty days of the close of the fiscal year, shall
3 transfer the funds to the general fund or other fund of the municipal
4 corporation for the purpose of paying health care expenses, including
5 the local social services district's yearly net share of medical assist-
6 ance expenditures.

7 5. The governing board shall establish a procedure for property owners
8 of the county or New York city to make contributions to the charitable
9 gifts reserve fund, which shall include the provision of a written
10 acknowledgment of the gift to the contributor.

11 6. Nothing in this section shall relieve the local social services
12 district of its ongoing obligation to pay the yearly net share of
13 medical assistance expenditures, nor relieve a local district of social
14 services of its statutory and regulatory functions in the adminis-
15 tration, supervision and operation of the medical assistance program in
16 its locality.

17 § 6-u. Charitable gifts reserve fund. 1. The governing board of any
18 city with a population less than one million, town or village may estab-
19 lish a reserve fund to be known as a charitable gifts reserve fund.

20 2. Such fund may receive charitable contributions from property owners
21 of the town, village or city.

22 3. The moneys in such fund shall be deposited and secured in the
23 manner provided by section ten of this article. The governing board, or
24 the chief fiscal officer of such town, village or city, if the governing
25 board shall delegate such duty to him or her, may invest the moneys in
26 such fund in the manner provided by section eleven of this article. Any
27 interest earned or capital gain realized on the money so deposited or
28 invested shall accrue to and become part of such fund. The separate

1 identity of such fund shall be maintained whether its assets consist of
2 cash or investments or both.

3 4. At the end of the fiscal year, the governing board of the town,
4 village or city, within sixty days of the close of the fiscal year, may
5 transfer the funds to the general fund or other fund of the municipal
6 corporation, so that the funds may be used for charitable purposes.

7 5. The governing board shall establish a procedure for property owners
8 of the town, village or city to make contributions to the charitable
9 gifts reserve fund, which shall include the provision of a written
10 acknowledgment of the gift to the contributor.

11 § 7. The real property tax law is amended by adding a new section
12 980-a to read as follows:

13 § 980-a. Tax credits for contributions to certain funds. 1. (a) A
14 municipal corporation that has established a fund pursuant to subdivi-
15 sion forty-four of section sixteen hundred four of the education law,
16 subdivision twelve-b of section seventeen hundred nine of the education
17 law, subdivision fifty-four of section twenty-five hundred ninety-h of
18 the education law, or section six-t or six-u of the general municipal
19 law, may adopt a local law, or in the case of a school district, a
20 resolution, authorizing a tax credit to be provided pursuant to this
21 section for contributions to such fund. For purposes of this section, a
22 municipal corporation that has established such a fund and authorized
23 such a credit shall be referred to as a "participating" municipal corpo-
24 ration.

25 (b) On and after December first, two thousand eighteen, the owner or
26 owners of real property shall be allowed a credit against the real prop-
27 erty taxes of a participating municipal corporation that have been
28 imposed upon such property. The amount of such credit shall equal nine-

1 ty-five percent of the amount contributed by one or more of the owners
2 of such property during the "associated credit year" as defined in this
3 section, to any or all of the funds established by such municipal corpo-
4 ration, subject to the limit established pursuant to paragraph (c) of
5 this subdivision, if any.

6 (c) The participating municipal corporation may establish a limit upon
7 the amount of such credit to be allowed in any given fiscal year, in
8 which case the amount of such credit shall not exceed the limit so
9 established. Any such limit shall be adopted by local law, or in the
10 case of a school district, by resolution, which local law or resolution
11 may either be the same as or separate from the local law or resolution
12 that initially authorized the credit. Once such a limit has been
13 adopted, it may be amended or repealed thereafter by local law, or in
14 the case of a school district, by resolution, provided that any such
15 amendment or repeal shall only apply to taxes of the participating
16 municipal corporation for fiscal years commencing after the adoption of
17 such local law or resolution. A copy of any local law or resolution
18 establishing, amending or repealing such a limit shall be provided to
19 the collecting officer who collects the taxes of the participating
20 municipal corporation.

21 2. For purposes of this section, the "associated credit year" shall be
22 the twelve-month period during which the owner of the property has made
23 a contribution described in subdivision one of this section that ends on
24 the last day prescribed by law on which the taxes of the participating
25 municipal corporation may be paid without interest or penalties, subject
26 to the following:

1 (a) Where such taxes are payable in installments, such twelve-month
2 period shall end on the last day prescribed by law on which the first
3 installment of such taxes may be paid without interest or penalties.

4 (b) Where a participating municipal corporation is a city school
5 district that is subject to article fifty-two of the education law, such
6 twelve-month period shall end on the last day prescribed by law on which
7 city taxes may be paid without interest or penalties, or if applicable,
8 on the last day prescribed by law on which the first installment of such
9 taxes may be paid without interest or penalties.

10 (c) Each such twelve-month period shall be determined without regard
11 to the possibility that the period prescribed by law for paying such
12 taxes without interest or penalties may be extended due to a delay in
13 the first publication of the collecting officer's notice as provided by
14 sections thirteen hundred twenty-two or thirteen hundred twenty-four of
15 this chapter or a comparable law, or due to an executive order issued in
16 connection with a state disaster emergency as provided by subdivision
17 two of section nine hundred twenty-five-a of this chapter.

18 3. The credit authorized by this section shall be administered as
19 follows:

20 (a) The administrator of the account or its designated agent shall,
21 upon receiving a contribution to an account specified in subdivision one
22 of this section during a credit year, furnish the property owner with an
23 acknowledgement in duplicate. Such acknowledgement shall be provided on
24 a form prescribed by the commissioner and shall specify the amount of
25 the contribution, the name and address of the donor, the date the
26 contribution was received, the authorized signature of the administrator
27 or agent, and such other information as the commissioner shall require.

1 (b) After receiving such an acknowledgement, the property owner may
2 present it to the appropriate collecting officer on or before the last
3 day prescribed by law on which taxes may be paid without interest or
4 penalty, together with a credit claim on a form prescribed by the
5 commissioner. Such credit claim form shall contain the name of the
6 property owner or owners, the date and amount of the contributions made
7 to the account during the associated credit year, the address of the
8 property to which the credit claim relates, and such other information
9 as the commissioner shall require. Notwithstanding any provision of law
10 to the contrary, the collecting officer shall thereupon be authorized
11 and directed to grant the property owner a tax credit equal to ninety-
12 five percent of the amount of the contributions made during the associ-
13 ated credit year as specified on the acknowledgement, and to reduce the
14 tax liability on the parcel accordingly, provided that such credit may
15 not exceed the limit established by the participating municipal corpo-
16 ration pursuant to paragraph (c) of subdivision one of this section, if
17 such a limit has been established. Where taxes are payable in install-
18 ments, if the credit exceeds the amount of the first installment, the
19 excess shall be applied to future installments until exhausted.

20 (c) If the property owner fails to present the acknowledgment and
21 credit claim form to the collecting officer on or before the last day
22 prescribed by law on which taxes may be paid without interest or penal-
23 ty, he or she may present the same to the chief fiscal officer or chief
24 financial officer of the participating municipal corporation, or to a
25 member of his or her staff. Such officer shall thereupon be authorized
26 and directed to grant the property owner a refund of school district
27 taxes in the amount of the credit, which amount shall be equal to nine-
28 ty-five percent of the total contributions made during the associated

1 credit year, provided that such refund shall not exceed the school
2 district taxes that have been paid on the property or the limit estab-
3 lished pursuant to paragraph (c) of subdivision one of this section, if
4 any. Provided further, that no interest shall be payable on such refund
5 if paid within forty-five days of the receipt of the acknowledgment and
6 credit claim form. The owner of the property may file such refund claim
7 with the authorized officer at any time during the three year period
8 beginning immediately after the last day such taxes were payable without
9 interest or penalty.

10 4. The amount of the itemized deduction that may be claimed by a
11 taxpayer under section six hundred fifteen of the tax law with respect
12 to the taxes paid on such property may not exceed the amount of the
13 taxes of a participating municipal corporation that have been imposed
14 upon such property minus the amount of the credit provided pursuant to
15 this section.

16 § 8. This act shall take effect immediately; provided, however, that
17 the amendments to section 2590-h of the education law made by section
18 five of this act shall not affect the expiration and reversion of such
19 section and shall expire and be deemed repealed therewith; and provided
20 further that if section 2590-h of the education law expires or is
21 repealed and is reverted prior to the effective date of this act,
22 section five of this act shall not take effect.