STATE OF NEW YORK

6569

2017-2018 Regular Sessions

IN SENATE

June 4, 2017

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

AN ACT to amend the education law, in relation to charter schools; 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; 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; and to amend the tax law and the education law, in relation to implementing the education affordability tax credit

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

Section 1. 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 part O of chapter 73 of the laws of 2016, 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the laws of 2002, as amended, or section 17 of chapter 123 of the laws of 2003, as amended, shall expire and be deemed repealed June 30, [~~2017~~] **2022**.

§ 1-a. 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 part O of chapter 73 of the laws of 2016, is amended to read as follows:

§ 34. This act shall take effect July 1, 2002; provided, that sections one through twenty, twenty-four, and twenty-six through thirty of this

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

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act shall expire and be deemed repealed June 30, [~~2017~~] 2022 provided, further, that notwithstanding any provision of article 5 of the general construction law, on June 30, [~~2017~~] 2022 the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.

§ 2. Subdivision 9 of section 2852 of the education law, as amended by section 2 of subpart A of part B of chapter 20 of the laws of 2015, is amended to read as follows:

9. The total number of charters issued pursuant to this article statewide shall not exceed [~~four hundred sixty~~] five hundred ten. (a) All charters issued on or after July first, two thousand fifteen and counted toward the numerical limits established by this subdivision shall be issued by the board of regents upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section; provided that a city of one million or more shall receive no more than forty percent of the remaining charters available in each year. [~~Fifty of such charters issued on or after July first, two thousand fifteen, and no more, shall be granted to a charter for a school to be located in a city having a population of one million or more.~~] The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school, or the renewal or extension of a charter approved by any charter entity, shall not be counted toward the numerical limits established by this subdivision.

(a-1) A charter school whose charter has been surrendered, revoked or terminated, including a charter that has not been renewed by action of its charter entity, shall not be counted toward the numerical limits established by this subdivision and instead shall be returned to the pool it was originally issued from and may be reissued by the board of regents either upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of

New York pursuant to a competitive process in accordance with subdivision nine-a of this section.

(b) A charter that has been surrendered, revoked or terminated [~~on or before July first, two thousand fifteen~~], including a charter that has not been renewed by action of its charter entity, may be reissued pursuant to paragraph (a) of this subdivision by the board of regents either upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section. Provided that such reissuance shall not be counted toward the statewide numerical limit established by this subdivision[~~, and provided further that no more than twenty-two charters may be reissued pursuant to this paragraph~~].

(c) For purposes of determining the total number of charters issued within the numerical limits established by this subdivision, the approval date of the charter entity shall be the determining factor.

(d) Notwithstanding any provision of this article to the contrary, any charter authorized to be issued by chapter fifty-seven of the laws of two thousand seven effective July first, two thousand seven, and that remains unissued as of July first, two thousand fifteen, may be issued pursuant to the provisions of law applicable to a charter authorized to be issued by such chapter in effect as of June fifteenth, two thousand fifteen[~~; provided however that nothing in this paragraph shall be construed to increase the numerical limit applicable to a city having a population of one million or more as provided in paragraph (a) of this subdivision, as amended by a chapter of the laws of two thousand fifteen which added this paragraph~~].

§ 3. 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 high-performing public charter school with a rigorous teacher training program will have three school 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~~] **greater**; 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.

§ 3-a. Subdivision 5 of section 2851 of the education law, as added by section 2 of part P of chapter 73 of the laws of 2016, is amended to read as follows:

5. Notwithstanding any provision of law, rule or regulation to the contrary [~~for a period of one year from the effective date of this~~

~~subdivision~~], a charter school approved by a charter entity listed in subdivision three of this section may apply at any time [~~during this period~~] to another charter entity, defined in paragraph (a), (b) or (c) of subdivision three of this section to request such other charter entity to oversee and supervise such charter school. All standards and requirements established in the original charter agreement shall remain in effect until the scheduled expiration of such charter agreement and provided however that all obligations of the previous charter entity to oversee and supervise a charter school shall terminate upon the transfer of authorization of such charter school to a new charter entity, as defined in subdivision five of section twenty-eight hundred fifty-two of this article, and the previous charter entity shall provide in a timely fashion information relevant to the charter as requested by such other charter entity. A charter school that seeks to change its charter entity must have met all other requirements of this article and cannot be in violation of any legal requirement, in probationary status, or slated for closure.

§ 4. The tax law is amended by adding a new section 44 to read as follows:

§ 44. Education affordability 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. For taxpayers whose federal adjusted gross income is less than three hundred thousand dollars for the taxable year during which such taxpayer made at least one qualified contribution, the amount of the credit shall be ninety percent of the taxpayer's total qualified contributions, capped at eight hundred seventy-five thousand dollars. For taxpayers whose federal adjusted gross income is greater than or equal to three hundred thousand dollars for the taxable year during which such taxpayer made at least one qualified contribution, the amount of credit shall be seventy-five percent of the taxpayer's total qualified contributions, capped at eight hundred seventy-five thousand 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 eight hundred seventy-five thousand dollars.

(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 education 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 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 eighteen shall be one hundred fifty million dollars. In calendar year two thousand nineteen, 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 twenty 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 affordability 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 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 commissioner of education.

(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 53;

2. Article 22: section 606; subsections (i) and (ccc).

§ 5. Paragraph (b) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 23 to read as follows:

(23) 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 fifty-three of section two hundred ten-B of this article.

§ 6. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Education affordability tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-four 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 paragraph (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.

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

(xliv) Education affordability tax credit under subsection (ccc)	Amount of credit under subdivision fifty-three of section two hundred ten-B

§ 8. 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 eighteen, 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 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 eighteen, 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-four 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.

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

(ccc) Education affordability tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit to be computed as provided in section forty-four 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.

§ 10. Subsection (c) of section 615 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) 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.

§ 11. Title 1 of the education law is amended by adding a new article 25 to read as follows:

ARTICLE 25

EDUCATION AFFORDABILITY 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.

§ 1209. Short title. This article shall be known and may be cited as the "education affordability program".

§ 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.

§ 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 commissioner 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.

§ 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 commissioner for approval to issue certificates of receipt in the form and manner prescribed by the commissioner; 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. Neither the commissioner or the department shall require any other information for such application except as authorized in this article or by section forty-four of the tax law.

§ 1213. Application approval. The commissioner shall review each application to issue certificates of receipt pursuant to this article. Approval or denial of an application shall be made within sixty days of receipt of such application.

§ 1214. Revocation of approval to issue certificates of receipt. The commissioner, 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-four 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-four 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 or the department of taxation and finance when requested by the department or the department of taxation and finance, 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-four of the tax law; provided however, that the commissioner 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 commissioner shall not revoke approval pursuant to this section when the failure to comply is due to clerical error and not negligence or intentional disregard for the law. Within five days of the determination revoking approval, the commissioner shall provide notice of such revocation to the educational scholarship organization, school improvement organization, local education fund, public school, or public school district and to the department of taxation and finance.

§ 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 commissioner, and (h) any other information as prescribed by regulation promulgated by the commissioner.

§ 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-four of the tax law.

§ 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.

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

§ 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.

§ 13. 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.

§ 14. This act shall take effect immediately; provided, however that sections four, five, six, seven, eight, nine and ten of this act shall apply to taxable years beginning after December 31, 2017.