STATE OF NEW YORK

3630

2019-2020 Regular Sessions

IN ASSEMBLY

January 29, 2019

Introduced by M. of A. SCHIMMINGER, THIELE, GOTTFRIED, ABINANTI, GALEF, CRESPO, PEOPLES-STOKES, ZEBROWSKI, PICHARDO, COLTON, BLAKE -- Multi-Sponsored by -- M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law and the tax law, in relation to establishing the New York state charitable health and education trust fund and the New York state charitable health and education trust fund donation tax credit

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

Section 1. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. New York state charitable health and education trust fund. 1. (a) There is hereby established in the sole custody of the state comptroller a special fund to be known as the New York state charitable health and education trust fund.

(b) The comptroller, in consultation with the attorney general, shall ensure such trust fund satisfies the requirements of 501(c)(3) of the United States internal revenue code.

2. (a) The state comptroller is hereby declared to be the trustee of the trust fund established pursuant to subdivision one of this section, and shall manage the investments of the trust fund. The state comptroller shall manage the investments of the trust fund in a careful and prudent manner consistent with the guidelines and provisions of section ninety-eight of this article.

(b) Any interest or other income or appreciation resulting from the investment of assets of the trust shall accrue to and become part of the assets of the trust.

(c) The state comptroller may enter into contracts to provide for investment advice and management, custodial services, and other professional services for the administration and investment of the trust.

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

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Administrative fees, costs and expenses, including investment fees and expenses, shall be paid from the assets of the trust fund.

3. The New York state charitable health and education trust fund is established for the exclusive benefit of entities that (a) provide health care or educational services and/or resources in New York state and (b) contributions to which would qualify for the charitable deduction under the United States internal revenue code.

4. (a) The trust fund shall consist of all donations received, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Any interest, income or appreciation earned by the investment of moneys in such trust fund shall be added to such trust fund, become a part of such trust fund, and be used for the purpose of such trust fund.

(b) The comptroller shall establish the process by which such trust fund shall receive donations and, in consultation with the department of taxation and finance, shall provide donors to the trust fund with a receipt including the donor's name, the amount of such donation and any other information required by the department of taxation and finance for such donors to qualify for the tax credit established pursuant to section six hundred six of the tax law.

(c) The moneys in such trust fund shall be transferred only for providing aid to entities described in subdivision three of this section. Prior to making distributions from the trust fund, the state comptroller, in consultation with the director of the budget, shall evaluate health care and education needs in the state to determine which entities shall receive distributions and the amount of such distributions.

(d) The state comptroller shall provide for the administration of the trust fund, including maintaining donor records, and providing annual audited reports.

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

(jjj) New York state charitable health and education trust fund donation tax credit. (1) General. A taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article for any donations made to the New York state charitable health and education trust fund established pursuant to section ninety-nine-ff of the state finance law.

(2) Amount of credit. A credit authorized by this subsection shall equal the total dollar amount of donations to the New York state charitable health and education trust fund made by the taxpayer during the taxable year.

(3) Record of donation. To claim a credit under this subsection, an eligible taxpayer shall provide the department with a receipt of donation issued pursuant to subdivision four of section ninety-nine-ff of the state finance law.

(4) Carryover of credit. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the four taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years.

(5) Transfer of credit. Any taxpayer may transfer in part, or in full, the New York state charitable health and education trust fund donation tax credit to another person or entity for use against tax imposed under this article. In order for the transferee to apply the credit against

taxes for a particular year, the transferee shall have acquired the credit on or before the date upon which the transferee's taxes are due (without extensions) for the year in question. A transferor and a transferee shall notify the department of any credit transfer.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to taxable years beginning on or after January 1, 2019; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.