§ 25-c. Power to administer the empire state apprenticeship tax credit program. (a) The commissioner is authorized to establish and administer the empire state apprenticeship tax credit program to provide tax incentives to certified employers for employing qualified apprentices pursuant to an apprenticeship agreement registered with the department pursuant to paragraph (d) of subdivision one of section eight hundred eleven of this chapter. The commissioner is authorized to allocate up to ten million dollars of tax credits annually, beginning in two thousand eighteen and ending before two thousand twenty-eight. Any unused annual allocation of the credit shall be made available in each of the subsequent years before two thousand twenty-eight.

(b) Definitions. (1) The term "qualified apprenticeship agreement" means an apprenticeship agreement as defined by section eight hundred sixteen of this chapter that has been registered with, and approved by, the commissioner, for a trade other than a construction trade.

(2) The term "qualified employer" means an employer that has or participates in a commissioner approved registered apprenticeship program.

(3) The term "construction" means constructing, reconstructing, altering, maintaining, moving, rehabilitating, repairing, renovating, fabricating, servicing, or demolition of any building, structure, or improvement, or component, or relating to the excavation of or other development or improvement to land.

(4) The term "participating employer" means a qualified employer that has applied to participate in the empire state apprenticeship tax credit program and received a preliminary certificate of tax credit from the commissioner. The preliminary certificate shall state the maximum amount of the tax credit that the employer may be able to claim if the applicant becomes a "certified employer."

(5) The term "certified employer" means a qualified employer that has received a final certificate of eligibility from the commissioner after the commissioner has determined that the qualified employer has fulfilled all the requisite eligibility criteria to participate in the empire state apprenticeship tax credit program established in this section. The final certificate of eligibility shall state the actual amount of tax credit that a certified employer is entitled to claim and the allocation year of the credit.

(6) The term "qualified apprentice" means an individual employed by a participating employer in a full time position for at least six months of a calendar year pursuant to a qualified apprenticeship agreement with a qualified employer. No individual employed by a qualified employer shall be deemed a qualified apprentice if such individual has not completed their apprenticeship training program within one year of their expected date of completion of their program.

(7) The term "disadvantaged youth" means an individual:

(i) who is between the ages of sixteen and twenty-four when the youth begins the apprenticeship; and

(ii) who is low-income or at-risk, as those terms are defined by the commissioner.

(8) The term "mentor" means an individual who provides instruction, guidance, and support to the apprentice on a regular basis throughout the apprentice's completion of the apprenticeship as the apprentice seeks employment in the field or industry of the apprenticeship. The goal of the mentor is to help train the apprentice in his or her trade and to help the apprentice successfully complete the apprenticeship and to secure and retain employment.

(c)(1) A certified employer shall be entitled to a tax credit against income or franchise tax for each qualified apprentice. The base credit allowed under this program shall be computed as follows:

(A) (1) two thousand dollars for each first year apprentice; (2) three thousand dollars for each second year apprentice;(3) four thousand dollars for each third year apprentice; (4) five thousand dollars for each fourth year apprentice; and (5) six thousand dollars for each fifth year apprentice. The apprentice's status as a first, second, third, fourth or fifth year apprentice will be determined on the last day of the calendar year, or if the apprentice is no longer employed by the participating employer on the last day of the calendar year, on the last day of the apprentice's employment with the participating employer; or

(B) in lieu of the credit specified in subparagraph (A) of this paragraph, for each qualified apprentice who is considered a disadvantaged youth for each tax year: (1) five thousand dollars for each first year apprentice; (2) six thousand dollars for each second year apprentice; and (3) seven thousand dollars for each third, fourth, or fifth year apprentice. The apprentice's status as a first, second,

third, fourth or fifth year apprentice will be determined on the last day of the calendar year, or if the apprentice is no longer employed by the participating employer on the last day of the calendar year, on the last day of the apprentice's employment with the participating employer. If a disadvantaged youth begins an apprenticeship before the age of twenty-five, a certified employer shall be eligible to continue to receive the tax credit for such youth under this subparagraph until that apprentice completes the apprenticeship.

(2) If an apprentice has been trained in his or her trade by a mentor for the entirety of the calendar year, the base credit amounts described in paragraph one of this subdivision shall be increased by five hundred dollars.

(3) The certified employer shall not be allowed a tax credit under this program for any apprentice, if that apprentice is the basis for any other state tax credit.

(d) Application and approval process. (1) To participate in the program established under this section, a qualified employer must submit to the commissioner an application in a form prescribed by the commissioner. As part of such application, a qualified employer must:

(A) Agree to allow the department of taxation and finance to share its tax information with the department. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law.

(B) Allow the department and its agents access to any and all books and records the department may require to monitor compliance.

(2) After reviewing a qualified employer's completed application and determining that the qualified employer will meet the eligibility conditions set forth under this section and any applicable regulations promulgated by the commissioner, the commissioner may admit the applicant into the program as a participating employer and provide the applicant with a preliminary certificate of eligibility establishing the qualified employer as a participating employer and stating the maximum amount of credit for which the applicant may be eligible.

(3) To receive a final certificate of tax credit, the participating employer must annually submit a final report to the commissioner, in a form prescribed by the commissioner. The report must demonstrate that the applicant has satisfied all eligibility requirements and provided

all the information necessary for the commissioner to compute an actual amount of credit allowed for that calendar year, notwithstanding the fact that a participating employer's taxable year may be a fiscal year, as defined in subdivision ten of section two hundred eight of the tax law.

(4) After reviewing the final report and finding it sufficient, the commissioner shall certify the participating employer as a certified employer and issue a final certificate of tax credit. Such certificate shall include, but not be limited to, the following information:

(A) The name and employer identification number of the certified employer;

(B) The actual amount of credit to which the certified employer is entitled for that calendar year, which actual amount cannot exceed the amount of credit listed on the preliminary certificate but may be less than such amount;

(C) The allocation year of the credit.

(5) If a certified employer's taxable year is a fiscal year, it shall be entitled to claim the credit on the return for the fiscal year that includes the last day of the calendar year covered by the final certificate of tax credit.

(e) The commissioner shall establish guidelines and criteria that specify requirements for qualified employers to participate in the program including criteria for certifying qualified apprentices. Any regulations that the commissioner determines are necessary and are consistent with the purpose of this article may be adopted on an emergency basis notwithstanding any provisions to the contrary in the state administrative procedure act. The commissioner may give preference to qualified employers that hire and train disadvantaged youth through qualified apprenticeship agreements, and qualified employers that are engaged in demand occupations or industries, or in regional growth sectors, including those identified by the department, such as clean energy, health care, technology, including software engineering and web development, advanced manufacturing and conservation. In addition, the commissioner may give preference to employers that employ apprentices in newly established apprenticeship programs. The commissioner also may take the following factors into consideration when evaluating whether to approve an application in a year subsequent to the year in which a

qualified employer was determined to be a certified employer:

(1) the length of the qualified apprenticeship agreement the employer has entered into;

(2) how many apprentices have graduated from the apprenticeship program to which the qualified apprentice employed by the employer belongs;

(3) how many apprentices in the apprenticeship program the qualified employer has hired; and

(4) any other factors the commissioner deems relevant.

(f) The commissioner shall annually publish a report. Such report must contain the names and addresses of any certified employer issued a final certificate of eligibility under this section, the work location of each apprentice generating credit, the amount of empire state apprenticeship tax credit allowed to the certified employer as specified on such final certificate of eligibility, and the number of each of the first year apprentices, second year apprentices, third year apprentices, fourth year apprentices, and fifth year apprentices, and how many of each of those types are considered disadvantaged youth. The commissioner shall include in such report the relevant industries of certified employers and recommendations for legislative or other action to further the intent and purpose of the empire state apprenticeship tax credit program.

(g) The commissioner shall promote, publish and disseminate information concerning the empire state apprenticeship tax credit and other available funding, particularly targeting industries and fields of business not currently taking advantage of apprenticeships.