STATE OF NEW YORK

10115

IN ASSEMBLY

March 15, 2018

Introduced by M. of A. CASTORINA -- read once and referred to the Committee on Education

AN ACT to amend the education law, the tax law, the state finance law and the civil practice law and rules, in relation to requiring the New York state college choice tuition savings program to also apply to elementary and secondary schools

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

Section 1. The article heading of article 14-A of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

NEW YORK STATE

[~~COLLEGE CHOICE~~] TUITION SAVINGS PROGRAM

§ 2. Section 695 of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

§ 695. Program established. There is hereby established the [~~college choice~~] tuition savings program and such program shall be known and may be cited as the "New York state [~~college choice~~] tuition savings program".

§ 3. Subdivision 2 of section 695-a of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

2. Attract students to public and private **elementary and secondary schools, and** colleges and universities within the state.

§ 4. Subdivision 7 of section 695-b of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

7. "Program" shall mean the New York state [~~college choice~~] tuition savings program established pursuant to this article.

§ 5. Paragraph c of subdivision 2 of section 695-d of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

c. The ability of the investment instrument to track increasing costs of [~~higher~~] education;

§ 6. Paragraphs 32 and 33 of subsection (c) of section 612 of the tax law, paragraph 32 as amended by chapter 81 of the laws of 2008 and para-

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

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graph 33 as added by chapter 546 of the laws of 1997, are amended to read as follows:

(32) Contributions made during the taxable year by an account owner to one or more family tuition accounts established under the New York state [~~college choice~~] tuition savings program provided for under article fourteen-A of the education law, to the extent not deductible or eligible for credit for federal income tax purposes, provided, however, the exclusion provided for in this paragraph shall not exceed five thousand dollars for an individual or head of household, and for married couples who file joint tax returns, shall not exceed ten thousand dollars; provided, further, that such exclusion shall be available only to the account owner and not to any other person.

(33) Distributions from a family tuition account established under the New York state [~~college choice~~] tuition savings program provided for under article fourteen-A of the education law, to the extent includible in gross income for federal income tax purposes.

§ 7. Paragraph 3 of subsection (d) of section 658 of the tax law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

(3) The commissioner may by regulation or instruction require the filing of a report annually by the comptroller or program manager of the New York state [~~college choice~~] tuition savings program, or their designee, setting forth the names and identification numbers of account owners, designated beneficiaries and distributees of family tuition accounts, the amounts contributed to such accounts, the amounts distributed from such accounts and the nature of such distributions as qualified withdrawals or as withdrawals other than qualified withdrawals, and any such other information as the commissioner may require regarding the taxation under this article of amounts contributed to or withdrawn from such accounts. The commissioner may require that any such report also be made to the account owner, designated beneficiary or distributee of any such account.

§ 8. The section heading and subdivisions 1 and 2 of section 78 of the state finance law, as added by chapter 546 of the laws of 1997, are amended to read as follows:

New York state [~~college choice~~] tuition savings program trust fund.

1. There is hereby established in the sole custody of the state comptroller a special fund to be known as the New York state [~~college choice~~] tuition savings program trust fund. All payments from such fund shall be made in accordance with article fourteen-A of the education law and the memorandum of understanding entered into pursuant thereto on the audit of the state comptroller.

2. The fund shall be a trust fund and shall consist of a trust account and an operating account. The trust account shall include amounts received by the New York state [~~college choice~~] tuition savings program pursuant to tuition savings agreements, administrative charges, fees, and all other amounts received by the program from other sources, and interest and investment income earned by the trust fund. The comptroller shall, from time to time, make transfers from the trust account to the operating account for the immediate payment of obligations under tuition savings agreements, operating expenses and administrative costs of the New York state [~~college choice~~] tuition savings program. Administrative costs shall be paid out of the operating account according to the terms and conditions established pursuant to the provisions of section six hundred ninety-five-c of the education law.

§ 9. The opening paragraph of subdivision (j) of section 5205 of the civil practice law and rules, as added by chapter 546 of the laws of 1997, is amended to read as follows:

Exemption for New York state [~~college choice~~] tuition savings program trust fund payment monies. Monies in an account created pursuant to article fourteen-A of the education law are exempt from application to the satisfaction of a money judgment as follows:

§ 10. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2018.