

# 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 Assem-  
bly, do enact as follows:

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

4 NEW YORK STATE

5 [~~COLLEGE CHOICE~~] TUITION SAVINGS PROGRAM

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

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

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

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

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

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

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

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

25 § 6. Paragraphs 32 and 33 of subsection (c) of section 612 of the tax  
26 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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1 graph 33 as added by chapter 546 of the laws of 1997, are amended to  
2 read as follows:

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

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

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

19 (3) The commissioner may by regulation or instruction require the  
20 filing of a report annually by the comptroller or program manager of the  
21 New York state [~~college-choice~~] tuition savings program, or their desig-  
22 nee, setting forth the names and identification numbers of account  
23 owners, designated beneficiaries and distributees of family tuition  
24 accounts, the amounts contributed to such accounts, the amounts distrib-  
25 uted from such accounts and the nature of such distributions as quali-  
26 fied withdrawals or as withdrawals other than qualified withdrawals, and  
27 any such other information as the commissioner may require regarding the  
28 taxation under this article of amounts contributed to or withdrawn from  
29 such accounts. The commissioner may require that any such report also be  
30 made to the account owner, designated beneficiary or distributee of any  
31 such account.

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

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

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

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

1 § 9. The opening paragraph of subdivision (j) of section 5205 of the  
2 civil practice law and rules, as added by chapter 546 of the laws of  
3 1997, is amended to read as follows:

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

8 § 10. This act shall take effect immediately and shall apply to taxa-  
9 ble years beginning on or after January 1, 2018.