

# STATE OF NEW YORK

7783

## IN SENATE

February 23, 2018

Introduced by Sens. GOLDEN, O'MARA -- read twice and ordered printed,  
and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law and the tax law, in relation to  
expanding the New York state college choice tuition savings program to  
include costs of elementary and secondary education

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 ARTICLE 14-A  
5 NEW YORK STATE  
6 [~~COLLEGE~~] EDUCATION CHOICE TUITION SAVINGS PROGRAM

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

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

13 § 3. Subdivision 5 of section 695-b of the education law, as amended  
14 by chapter 535 of the laws of 2000, is amended to read as follows:

15 5. "Eligible educational institution" shall mean any institution of  
16 higher education defined as an eligible educational institution in  
17 section 529(e)(5) of the Internal Revenue Code of 1986, as amended, and  
18 any elementary or secondary school for which tuition expenses are  
19 included within the definition of the term qualified higher education  
20 expenses in section 529(e)(3) of the Internal Revenue Code of 1986, as  
21 amended.

22 § 4. Subdivision 10 of section 695-e of the education law, as amended  
23 by chapter 593 of the laws of 2003, is amended to read as follows:

24 10. The comptroller shall promulgate rules or regulations to prevent  
25 contributions on behalf of a designated beneficiary in excess of an

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

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1 amount that would cause the aggregate account balance for all accounts  
2 for a designated beneficiary to exceed a maximum account balance, as  
3 established from time to time by the comptroller and the corporation on  
4 the basis of nonpublic elementary and secondary tuition costs and the  
5 higher education costs in the state, with adequate safeguards to prevent  
6 more contributions than necessary to provide for the qualified higher  
7 education costs of the beneficiary, as required to maintain the program  
8 as a "qualified tuition program" under section 529 of the Internal  
9 Revenue Code of 1986, as amended.

10 § 5. Section 695-e of the education law is amended by adding a new  
11 subdivision 17 to read as follows:

12 17. Nothing in this article or in any tuition savings agreement  
13 entered into pursuant to this article shall be construed as a guarantee  
14 by the state or any elementary or secondary school that a beneficiary  
15 will be admitted to any elementary or secondary school, or, upon admis-  
16 sion to an elementary or secondary school will be permitted to continue  
17 to attend such elementary or secondary school.

18 § 6. Paragraphs 32 and 33 of subsection (c) of section 612 of the tax  
19 law, paragraph 32 as amended by chapter 81 of the laws of 2008, para-  
20 graph 33 as added by chapter 546 of the laws of 1997, are amended to  
21 read as follows:

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

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

36 § 7. This act shall take effect immediately and shall apply to  
37 contributions and distributions made on and after January 1, 2018.