

# STATE OF NEW YORK

4605

2021-2022 Regular Sessions

## IN SENATE

February 8, 2021

Introduced by Sen. PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher 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:

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:

### NEW YORK STATE

#### [~~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:

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

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

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

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

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

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

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

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

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

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

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

1 and conditions established pursuant to the provisions of section six  
2 hundred ninety-five-c of the education law.

3 § 9. The opening paragraph of subdivision (j) of section 5205 of the  
4 civil practice law and rules, as added by chapter 546 of the laws of  
5 1997, is amended to read as follows:

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

10 § 10. This act shall take effect immediately and shall apply to taxa-  
11 ble years beginning on or after January 1, 2021.