STATE OF NEW YORK

861

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. BAILEY, HINCHEY, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to establishing the New York college debt repayment program

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

Section 1. The education law is amended by adding a new section 355-f to read as follows:

§ 355-f. New York college debt repayment program. 1. A college debt repayment program may be established by any resident of this state. The earnings from the program shall grow federally and state tax-deferred and withdrawals for qualified expenses shall not be subject to state or federal income tax.

2. For purposes of this section:

(a) The term "college debt repayment program" means a program established and maintained by this state or agency or instrumentality thereof or by one or more eligible educational institutions under which a person:

i. may pay off debt incurred by tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of debt incurred from higher education expenses of the beneficiary, or

ii. in the case of a program established and maintained by this state or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the debt incurred by qualified higher education expenses of the designated beneficiary of the account.

(b) The term "member of the family" means any spouse, child, grandchild or first degree cousin of any designated beneficiary.

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

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(c) The term "designated beneficiary" means:

i. the individual designated at the commencement of participation in the college debt repayment program as the beneficiary of amounts paid (or to be paid) to the program; or

ii. in the case of a change in beneficiaries, the individual who is the new beneficiary.

(d) The term "qualified higher education expenses" means:

i. tuition, room and board, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution;

ii. expenses for special needs services in the case of a special needs beneficiary which are incurred in connection with such enrollment or attendance; or

iii. expenses paid or incurred in two thousand nine or two thousand ten for the purchase of any computer technology or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

(e) The term "eligible educational institution" means an institution which is described in section 481 of the higher education act of 1965 (20 U.S.C. 1088), as in effect on the effective date of this paragraph.

(f) A program shall not be treated as a college debt repayment program unless it provides that purchases or contributions may only be made in cash.

(g) A program shall not be treated as a college debt repayment program unless it provides separate accounting for each designated beneficiary.

(h) A program shall not be treated as a college debt repayment program unless it provides that any contributor to, or designated beneficiary under, such program may, directly or indirectly, direct the investment of any contributions to the program (or any earnings thereon) no more than two times in any calendar year.

(i) A program shall not be treated as a college debt repayment program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(j) A program shall not be treated as a college debt repayment program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the debt incurred by the qualified higher education expenses of the beneficiary.

3. (a) Except as otherwise provided in this subdivision, no amount shall be includible in gross income of:

i. a designated beneficiary under a college debt repayment program; or

ii. a contributor to such program on behalf of a designated beneficiary, with respect to any distribution or earnings under such program.

(b) Any contribution to a college debt repayment program on behalf of any designated beneficiary shall:

i. be treated as a completed gift to such beneficiary which is not a future interest in property; and

ii. not be treated as a qualified transfer under section 2503(e) of the internal revenue code.

(c) If the aggregate amount of contributions described in paragraph (b) of this subdivision during the calendar year by a donor exceeds the limitation for such year under section 2503(b) of the internal revenue code, such aggregate amount shall, at the election of the donor, be

taken into account for purposes of such section ratably over the five year period beginning with such calendar year.

4. (a) Any distribution under a college debt repayment program shall be includible in the gross income of the distributee in the manner as provided under section 72 of the internal revenue code.

(b) No amount shall be includible in gross income under paragraph (a) of this subdivision by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.

(c) In the case of distributions not described in paragraph (b) of this subdivision, if:

i. such distributions do not exceed the debt incurred by the qualified higher education expenses (reduced by expenses described in paragraph (b) of this subdivision), no amount shall be includible in gross income; and

ii. in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

(d) Any benefit furnished to a designated beneficiary under a college debt repayment program shall be treated as a distribution to the beneficiary for purposes of this subdivision.

(e) Paragraph (a) of this subdivision shall not apply to that portion of any distribution which, within sixty days of such distribution, is transferred:

i. to another college debt repayment program for the benefit of the designated beneficiary; or

ii. to the credit of another designated beneficiary under a college debt repayment program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

(f) Any change in the designated beneficiary of an interest in a college debt repayment program shall not be treated as a distribution for purposes of paragraph (a) of this subdivision if the new beneficiary is a member of the family of the old beneficiary.

5. (a) All college debt repayment programs of which an individual is a designated beneficiary shall be treated as one program;

(b) all distributions during a taxable year shall be treated as one distribution; and

(c) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

6. (a) No amount shall be includible in the gross estate of any individual for purposes of chapter 11 of the internal revenue code by reason of an interest in a college debt repayment program.

(b) Paragraph (a) of this subdivision shall not apply to amounts distributed on account of the death of a beneficiary.

(c) In the case of a donor who makes the election described in paragraph (c) of subdivision three of this section and who dies before the close of the five year period referred to in such paragraph, notwithstanding paragraph (a) of this subdivision, the gross estate of the donor shall include the portion of such contributions properly allocable to periods after the date of death of the donor.

(d) Except as provided in paragraph (e) of this subdivision, in no event shall a distribution from a college debt repayment program be treated as a taxable gift.

(e) The taxes imposed by chapters 12 and 13 of the internal revenue code shall apply to a transfer by reason of a change in the designated

beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is:

i. assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651 of the internal revenue code); and

ii. a member of the family of the old beneficiary.

7. The tax imposed by section 530(d)(4) of the internal revenue code shall apply to any payment or distribution from a college debt repayment program in the same manner as such tax applies to a payment or distribution from a Coverdell education savings account. This subdivision shall not apply to any payment or distribution in any taxable year beginning before January first, two thousand four, which is includible in gross income but used for qualified higher education expenses of the designated beneficiary.

8. A contributor shall make an initial investment of at least twenty-five dollars and may contribute up to three hundred seventy-five thousand dollars to a college debt repayment program.

9. Any designated beneficiary who withdraws funds to pay for nonqualified expenses shall pay a ten percent penalty tax on earnings as well as federal and state income tax.

10. The comptroller shall be authorized to offer age-based options for participants of the program similar to those offered in this state's 529 college savings program.

11. (a) Individual taxpayers may deduct the contributions they make to a college debt repayment program, up to five thousand dollars annually.

(b) Married individual taxpayers that file jointly may deduct the contributions they make to a college debt repayment program, up to ten thousand dollars annually.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.