

GOVERNOR'S PROGRAM BILL

2015

MEMORANDUM

AN ACT to amend the education law and the tax law, in relation to enacting the parental choice in education act

Purpose:

This bill would amend the Education Law and the Tax Law to enact the Parental Choice in Education Act.

Summary of Provisions:

Section 1 of the bill provides that the bill will be known as the Parental Choice in Education Act.

Sections 2 through 9 of the bill would amend the Education Law and the Tax Law to enact the Education Scholarship and Program Tax Credit (ESPTC). Under the ESPTC program, contributions may be made to approved Educational Scholarship Organizations (ESOs) that would, in turn, award scholarships for eligible students choosing to attend non-public schools, or public schools outside of their districts of residence. Scholarship eligibility is based on family income. Students residing in a household of up to two dependent children would qualify if their household federal Adjusted Gross Income (FAGI) is \$250,000 or less. This threshold will increase by \$10,000 for each additional dependent child, up to a maximum allowable FAGI of \$300,000. Further, the bill requires ESOs to award at least half of the scholarships to students whose family income does not exceed 150 percent of the income qualifications required for reduced price school lunches under the National School Lunch Act. There is no maximum scholarship award for a student.

The ESPTC program also authorizes credits for contributions to public education entities, school improvement organizations and local education funds. These donations would be available to support public school programs such as extended day programs, pre-kindergarten programs, and other programs to meet the needs of at-risk students.

The ESPTC program would make available \$70 million in credits annually. Of that amount, \$50 million would be allocated for donations to ESOs and \$20 million would be available for donations to public education entities. Both businesses and individuals would be eligible to participate in the tax credit program. Taxpayers would receive a tax credit of seventy-five percent of their authorized donation. The maximum annual credit for an individual taxpayer or business would be \$1 million.

The bill directs the State Education Department and the Department of Taxation and Finance to oversee and monitor various aspects of the program. The State Education Department would certify and monitor organizations eligible to receive donations through this program. The Department of Taxation and Finance would administer and manage credits provided within the program cap. ESOs and other eligible organizations receiving contributions would be required to disburse at least 90 percent of contributions received each year. These eligible organizations under the ESPTC program would be authorized to utilize up to ten percent of the funds received to pay for administrative expenses related to the tax credit.

Section 10 of the bill enacts a new Instructional Materials and Supplies Credit, which would provide teachers in public schools, including charter schools, with a refundable income tax credit, not to exceed \$200 annually, for the amount paid during the taxable year for instructional materials and supplies used in the classroom. This credit would have an annual cap of \$10 million.

Section 11 of the bill enacts a new Family Choice Education Tax Credit. This refundable personal income tax credit would be available to taxpayers with New York AGI of \$60,000 or less. The credit would be equal to the lesser of the tuition paid by the taxpayers for enrollment or attendance of their dependents at a not-for-profit pre-kindergarten program or elementary or secondary sectarian or nonsectarian school in this state, or \$500 per child.

Section 12 of the bill contains a severability clause.

Section 13 of the bill provides that the bill takes effect immediately and applies to taxable years beginning on or after January 1, 2016.

Existing Law:

These provisions are new.

Statement in Support:

The Parental Choice in Education Act establishes three new tax credit programs that, through a multi-pronged approach, would help to advance the critical issues of choice in education and increased options for families.

First, the Education Scholarship and Program Tax Credit (ESPTC) would leverage private donations from individual taxpayers and businesses to fund \$67 million¹ in scholarships for low-income students attending private and out-of-district public schools. At least fifty percent of the scholarships must be for students with family incomes below 150% of the income qualification for the federal reduced price lunch program (approximately \$67,000 for a family of

¹ Because the tax credit is equal to 75% of the authorized donation, \$50 million in available tax credits equates to approximately \$67 million in donations.

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Private and parochial schools are an important alternative to public schools in the state of New York, and many of these schools have closed in recent years in the face of dropping enrollment and ensuing financial difficulties. This program would help to expand access to nonpublic schools to additional families who may not be able to afford tuition and alleviate the financial burden for families of enrolled scholarship recipients.

The ESPTC would also provide credits for up to \$27 million² in donations made to public schools and not-for-profits that support public schools' educational programs, including pre-kindergarten and extended-day programs. This bill encourages individual and business contributions directly to public schools, or to local education funds and school improvement organizations. These donations would be available to fund pre-kindergarten programs, instructional materials, programs to meet the needs of at-risk students or students with disabilities, including mentoring and tutoring, and other academic programs.

Second, the Family Choice Education Credit would provide families with incomes below \$60,000 per year with a State income tax credit for tuition expenses to non-public schools. Families would be eligible to claim a credit of up to \$500 per student, helping to ease the tuition burden on families and allow students to attend the school of their choice.

Finally, the bill would establish an Instructional Materials and Supplies Credit, which would provide a tax credit of up to \$200 per public school educator for the purchase of instructional materials and supplies for use in classrooms. Public school teachers throughout the State would be eligible for this tax benefit, which would have an aggregate cap of \$10 million annually.

Budget Implications:

This bill would result in reduced revenues of approximately \$150 million annually beginning in FY 2018.

Effective Date:

This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016.

² Because the tax credit is equal to 75% of the authorized donation, \$20 million in available tax credits equates to approximately \$27 million in donations.