

# New York State Educational Conference Board



## Reject 529 Plan Private School Vouchers in State Budget Revenue Bill, Part BBBB (S.7509-B)

The Tax Cut and Jobs Act that the President signed at the end of 2017 not only endangered public education in New York State by nearly eliminating the State and Local Tax Deduction, and potentially increasing the federal debt, it also authorized funds contributed to 529 college savings plans to now be used for elementary and secondary education. As a result, income generated in these funds would be federally tax-free.

The New York State Department of Tax and Finance has determined that this provision of the federal tax legislation would not automatically establish a New York State tax benefit for the use of 529 plan funds for elementary and secondary education costs related to private school tuition and expenses. The Senate one-house budget proposal seeks to amend current law to allow contributors to retain their tax benefit.

Under current state law, funds contributed to 529 plans are tax deductible. In the event that funds are withdrawn and used for an ineligible purpose, such as K-12 private school tuition, the state is able to recoup the tax benefit received at the time of deposit.

Under this proposal, a parent, grandparent, friend, or relative could simply make the max contribution to a 529 plan on an annual basis and then immediately withdraw such funds the following day to pay a child's tuition, and retain the state subsidy via the tax deduction. This turns the original intent of 529 college-savings plans on its head, which was to grow investments in a tax-sheltered account long-term to save for college.

An exact cost estimate is challenging considering it requires numerous assumptions based on household size and whether every family seeks to fully utilize the tax advantages a 529 plan can provide. As knowledge of this newfound tax benefit spreads, the loss of state revenue will likely increase. Regardless, the State should not be using public dollars to subsidize private school education.

This tax deduction for private school education is similar to the variety of private school voucher proposals that the Legislature has reviewed and rejected over the last several years. Not only should this proposal be treated like previous tax credits and vouchers and rejected, the Legislature should amend the 529 law to delink all references to federal law so that this proposal is not suddenly imposed on the State through any technical amendments to the tax law which Congress may enact.

**The ECB urges the legislature to reject the Senate proposal and enact alternative legislation to delink New York's college savings plan from federal definitions.**