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AN ACT concerning scholarships for certain nonpublic school students, and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and chapter 4 of Title 54A of the New Jersey Statutes.

“New Jersey Student Support Act”; establishes program in Department of Treasury to provide tax credits to taxpayers contributing to organization which awards scholarships to certain nonpublic school students.

PRIME Sponsor Swain/Schaer/Atkins

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<u>Karabinchak</u>	<u>18</u>		
<u>Schnall</u>	<u>30</u>		
<u>Marenco</u>	<u>33</u>		
<u>Bagolie</u>	<u>27</u>		
<u>Tutti</u>	<u>38</u>		
<u>Pinfar-Marin</u>	<u>29</u>		

Same as \_\_\_\_\_ 22/23

Same as J 3035 24/25

Suggested allocation:

AN ACT concerning scholarships for certain nonpublic school students, and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and chapter 4 of Title 54A of the New Jersey Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the "New Jersey Student Support Act."

2. As used in sections 1 through 10 of P.L. , c. (C. ) (pending before the Legislature as this bill):

"Eligible student" means a child who:

(1) is a resident of this State who intends to enroll in grades kindergarten through 12 in the next school year;

(2) has a household income that does not exceed the most recent federal income guidelines for reduced price lunch under the National School Lunch Program multiplied by 4.32.

"Eligible school" means a nonpublic school eligible to participate in the National School Lunch Program.

"Student support organization" means an organization that has been determined by the federal Internal Revenue Service to be qualified as a tax-exempt organization pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501) and that:

(1) requires that any tax-creditable contributions accepted by it be designated by the contributor at the time of contribution as a contribution pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) distributes scholarships for eligible students to attend eligible schools in the State pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill);

(3) spends no more than 5 percent of contributions received pursuant to subsection a. of section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) on administrative expenses; and

(4) complies with any other requirements as the Director of the Division of Taxation in the Department of the Treasury may require.

3. Beginning in the first State fiscal year following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the Director of the Division of Taxation in the Department of the Treasury shall establish a program to provide tax credits to taxpayers that contribute funding to a student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) to provide scholarships to eligible students attending an eligible school.

4.a. Subject to the restrictions established pursuant to subsection c. of this section, a taxpayer, upon approval of the Director of the

Division of Taxation in the Department of the Treasury, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, in an amount equal to 100 percent of the contribution made by the taxpayer to a student support organization selected pursuant to section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) during the privilege period; provided that the taxpayer shall designate at the time the contribution is made that the contribution is made pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

b. The order of priority of the credit allowed under this section of P.L. , c. (C. ) (pending before the Legislature as this bill) and any other credits allowed by law shall be as prescribed by the director. The amount of the credit applied under P.L. , c. (C. ) (pending before the Legislature as this bill) against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit otherwise allowable under this section which cannot be applied for the privilege period due to limitations of this subsection or under other provisions of P.L.1945, c.162 may be carried over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

c. (1) The value of a credit approved by the director for an individual taxpayer in a given year or privilege period shall not exceed the lesser of 50 percent of that taxpayer's total tax liability or \$1,000,000 for a credit taken against tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or \$100,000 for a credit taken against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

(2) The value of credits approved by the director in a given fiscal year pursuant to this section and section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill) to apply to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall not exceed \$250,000,000, provided that the director shall update this figure annually based on the change in the Consumer Price Index.

d. If the sum of the amount of tax credits authorized under P.L. , c. (C. ) (pending before the Legislature as this bill) in a State fiscal year exceeds the aggregate annual limits established pursuant to this section, tax credits shall be allowed in the order in which contributions are made until the limit is reached.

5. a. Subject to the restrictions established pursuant to subsection c. of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill), a taxpayer, upon application to a student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill), and

the approval of the Director of the Division of Taxation in the Department of the Treasury, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 100 percent of the contribution made by the taxpayer to a student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) during the taxable year; provided that the taxpayer shall designate at the time the contribution is made that the contribution is made pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) and provided that the contribution is equal to or greater than \$100.

b. The order of priority of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the director. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

6. a. The Division of Taxation shall select one student support organization to administer the program established pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. The Division of Taxation may evaluate and approve a request from a student support organization selected pursuant to subsection a. of this section to amend programmatic procedures as necessary to ensure the effective and efficient administration of the program. Amendments that may be considered may include revisions to the administration of the tax credits. The Division of Taxation shall not approve any amendments that would materially alter the goals and objectives of the program.

c. On or before January 1 of each calendar year following the first scholarships granted under the program, the Division of Taxation shall submit a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the implementation and results of the program. The report shall be based on the annual report submitted by the student support organization pursuant to subsection g. of section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill), and the annual audits conducted pursuant to subsection h. of that section.

7. a. A student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall verify the eligibility of students prior to awarding scholarships.

b. Scholarships awarded by a student support organization:

(1) shall not be limited to students attending specific schools or living within specific regions;

(2) shall be equal in amount for all eligible students who apply in a given school year; and

(3) shall not be less than the amount of the scholarship provided to the student in the prior school year.

c. If insufficient funds are available to fund students at the levels required pursuant to paragraphs (2) and (3) of subsection b. of this section, then students who received a scholarship in the prior school year shall receive priority. The award of scholarships to new applicants shall be conducted pursuant to a lottery.

8. A student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall:

- a. publicize the program to eligible schools;
- b. manage the application process for each participating eligible school;
- c. review the residence of each eligible student;
- d. monitor the enrollment of eligible students in eligible schools;
- e. manage the acceptance of contributions made to the program, including:

(1) advising a potential contributor of the inability to receive a tax credit due to the limits established pursuant to subsection c. of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill); and

(2) verifying contributions to the Director of the Division of Taxation;

f. carry forward funds collected in the school year in an amount not to exceed 20 percent of the total value of scholarship awards and administrative expenses. Any contributions not used to make scholarship payments, administer the program, or carried forward to the subsequent fiscal year shall be returned to the Division of Taxation;

g. prepare a report to be submitted to the State Treasurer and the Commissioner of Education by December 1 of each year that includes, but is not limited to, the following information for the prior school year: the amount of contributions received by the student support organization; the total number of eligible students for which scholarships were awarded, by school and grade level; and the total number of scholarships awarded to eligible schools; and

h. annually enter into a contract for an annual independent financial audit of the program. The student support organization shall transmit a copy of the financial audit to the Division of Taxation, the State Treasurer, and the Commissioner of Education no later than December 1 of each year.

9. The provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall not supersede, impact, or interfere with any of the following:

a. the full funding in each State fiscal year necessary to satisfy the requirement in Article VIII, Section IV, paragraph 1 of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and 18 years;

b. the full funding of the veterans' \$250 property tax deduction, required to be provided to eligible veterans pursuant to Article VIII, Section I, paragraph 3 of the New Jersey Constitution;

c. the full funding of the senior citizens' and disabled persons' \$250 property tax deduction authorized by Article VIII, Section I, paragraph 4 of the New Jersey Constitution; and

d. the full payment of the contributions required by law to be made to the State-administered retirement systems.

10. a. No later than six months after the conclusion of the fourth school year in which scholarships are awarded under the program, the Department of the Treasury, in conjunction with the Department of Education, any relevant governmental organization, and stakeholders from the nonpublic school community, shall submit a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), that includes:

(1) the number of scholarships and amount of tax credits awarded under the program, including the number of applications for scholarships submitted, the number of applications approved, and the number of applications which were denied due to insufficient funds available to award scholarships;

(2) recommendations on improvements to the program including, but not limited to: improving the application process; and improving the interaction between applicants, eligible schools, and the student support organization;

(3) the number of nonpublic schools that closed in the five years before scholarships were initially awarded under the program compared to the closures in the years after scholarships were initially awarded under the program.

b. A student support organization selected pursuant to subsection a. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall provide all information requested by the Department of Education, the Department of the Treasury, and any other relevant governmental entity to effectuate the purposes of the reports required pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

11. The Director of the Division of Taxation shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

12. This act shall take effect immediately.

#### STATEMENT

This bill directs the Director of the Division of Taxation to establish a program to provide tax credits to taxpayers that make contributions to a selected student support organization that awards scholarships for eligible students to attend participating nonpublic schools.

The program established by the director would allow a taxpayer to claim a tax credit against the corporate business tax or personal gross income tax equal to 100 percent of any contribution made to a student support organization; in the case of the gross income tax credit, a taxpayer must contribute a minimum of \$100 to a student support organization in order to claim a tax credit. The value of a credit for an individual taxpayer in a given year or privilege period is not permitted to exceed the lesser of 50 percent of the taxpayer's total tax liability or \$1,000,000 for a tax credit against the corporate business tax or \$100,000 for a credit against the personal gross income tax.

The maximum amount of tax credits allowable in each State fiscal year may not exceed \$250 million.

The bill directs the Division of Taxation to select one student support organization to administer the program, draft regulations to implement the program, and submit an annual report to the Governor and Legislature on the implementation and results of the program.

The student support organization would receive contributions made to the program, spending no more than 5 percent of contributions on administrative costs, and distributing the remaining 95 percent as scholarships for eligible families. The student support organization is required to verify student eligibility prior to awarding a scholarship, not limit scholarships to students in a certain school or region, award scholarships equally to all eligible students who apply in a given school year, and provide a student with a scholarship that is not less than the amount the student received in the prior school year. The student support organization is to publicize the program, carry forward no more than 20 percent of funds each year, and submit an annual report to the State Treasurer and the Commissioner of Education. The student support organization is required to contract annually for an independent financial audit of the program and transmit a copy of the financial audit to the Division of Taxation, the State Treasurer, and the Commissioner of Education no later than December 1 of each year.

To be eligible for a scholarship from the student support organization, a student is to reside in New Jersey and intend to enroll in grades kindergarten through 12 in the next school year. A

student is required to have a household income that does not exceed the federal income guidelines for reduced price lunch under the National School Lunch Program multiplied by 4.32.

To participate in the program, a school is to be located in New Jersey and be a nonpublic school that is eligible to participate in the National School Lunch Program.

The bill also includes language requiring that the provisions of the bill not supersede, impact, or interfere with the full funding in each State fiscal year necessary to satisfy the requirement of the New Jersey Constitution that the Legislature provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between 5 and 18 years of age; the full funding of the veterans' \$250 property tax deduction, required to be provided to eligible veterans pursuant to the State Constitution; the senior citizens' and disabled persons' \$250 property tax deduction authorized by the State Constitution; and the full payment of contributions required by law to be made to the State-administered retirement systems.

No later than six months after the conclusion of the fourth school year in which scholarships are awarded under the program, the Department of the Treasury, in conjunction with the Department of Education, any relevant governmental organization, and stakeholders from the nonpublic school community, is required to submit a report to the Governor and Legislature that will include: information on the number of scholarships and the amount of tax credits awarded under the program; recommendations on improvements to the program; the number of nonpublic school closures five years prior to awarding any scholarships under the program compared to closures after the implementation of the program.

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“New Jersey Student Support Act”; establishes program in Department of Treasury to provide tax credits to taxpayers contributing to organization which awards scholarships to certain nonpublic school students.