MEMO IN OPPOSITION

Education Investment Tax Credit

A.1826-D (Cusick), S.6808 (Golden), and S.4099-A (Golden)

We strongly oppose A.1826-D, S.6808, and S.4099-A, which would enact the Education Investment Tax Credit.

These bills divert hundreds of millions of dollars away from public schools and services. In the first three years alone, $675 million would be siphoned from the General Fund – monies that should be supporting public schools and other public services.

Worse yet, this legislation does nothing to help low wealth, high-need students, or middle or low-income donors. Rather, it would allow the wealthy to avoid their tax liability and actually profit from their donation while withholding the taxes they owe to support the public good.

We cannot continue to divert resources from our schools, communities and public services, while we ask our schools and students to raise standards and reach higher expectations.

An illustration based on one tax analysis: A wealthy individual could conceivably donate $1.3 million, and could receive $1.5 million back in state tax credits and federal tax benefits. If a $1.3 million donation is made, the donor would receive the maximum allowable state tax credit of $1 million. The donor may also be eligible to receive a federal tax benefit of $528,000. The wealthy donor could then profit approximately $195,000, tax free, from their donation.

New York's public school children are still owed $4 billion under the Campaign for Fiscal Equity lawsuit and $1 billion under the Gap Elimination Adjustment. How can hundreds of millions of dollars in tax giveaways to the wealthy be justified when our public schools and students are still struggling and the state is not funding the sound basic education that its own constitution requires?

The introduction of this proposed scheme would create an annual funding battle between public and private schools and a never-ending debate over expansion of such credits. Further, other state courts have overruled and stuck down similar provisions, including tax credits for donations to scholarship funds for students in private schools – a Circuit Court in Alabama as recently as last week.

The state Constitution also prohibits direct or indirect financial aid to private schools that are under the control of a religious denomination or where religious tenets are taught and mandates an adequately funded public school system. Private schools, their curriculum, and their funding structures are a choice. Public education is a constitutionally mandated function of state government, obligated to serve all children and accountable to all voters.

This tax giveaway is unprecedented in that it shifts state dollars - of which there are a finite amount - away from aid to public education and services and into privatized educational institutions. We must properly support our public schools and services that serve our communities. For the aforementioned reasons, we strongly oppose this legislation and urge its defeat.