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THE LEAGUE OF WOMEN VOTERS *of New York State*

The “Parental Choice in Education Act” (PCEA)

Governor’s Program Bill # 2 May 11, 2015

Despite the failure to pass the proposed \$100 million Education Investment Incentives Act (EIIA) during the regular budget session, its proponents have pressured the Executive and the Legislature to try again. The PCEA is a \$150 million measure that is skewed even more heavily to private schools. In the EIIA, donors would have received income tax credits and the \$100 million provided was to be split 50/50 private/public. This bill, by comparison, provides \$50 million for tax credits connected to private school scholarship donations supporting an “Educational Scholarship” (ES) program while lowering the “public school” share dedicated to “public school entities” from \$50 million to \$20 million. Further the PCEA adds \$10 million for an Instructional Materials and Supplies Credit for all teachers (up to \$10 million cap, \$200 per teacher), and a “Family Choice Education Tax Credit” structured as a refundable personal income tax credit for tuition expenses (**this is a close relative of a state-funded school voucher**). The cost of this portion of the new bill is not capped, but the bill provides that it would be offered to all tuition-paying families with “incomes below \$60,000 a year” (\$500 per student limit). If the total estimated cost is \$150 million, we assume that this portion approximates \$70 million, but there is no cap. That amount, together with the \$50 million in the ES program, would drive at least \$120 million to support tuition costs of private schools, more than twice the amount that would have been allocated under the EIIA.

This bill primarily favors taxpayers who desire to support *private schools of their choice*. The ES program allocates state tax credit certificates through a first-come, first-serve process with no restriction on geographic distribution or the target institution’s need. Donors would receive a tax credit worth 75% of their donation UP TO \$1,000,000. As it did with the EIIA, the League strongly opposes this PCEA.

These are general considerations:

- **In light of the Legislature’s ongoing failure to fulfill the Campaign for Fiscal Equity lawsuit’s aims, the League supports the direction of taxpayer dollars primarily toward students attending public schools in high-needs school districts. This bill does the opposite.**
- **The League believes that these bills are inconsistent with our position in favor of progressive taxation because the donor portion greatly benefits wealthy individuals and corporations.**
- **The League of Women Voters of New York State believes that education aid should be allocated through a democratic and transparent legislative process, which the ES fails to do.**

The bill language raises significant issues:

- ***Measuring Segregation Impact Not Possible as Drafted***
The League of Women Voters of the United States has a long-standing position based on national observation that tuition tax credits will, over time, tend to encourage further segregation of students. This bill does not provide any means of preventing that from occurring (what the Governor referred to as anti-“creaming” in the context of the charter school cap lift). No evaluative measures/metrics of students availing themselves of the new program (compared to a baseline) are provided for. The annual report provisions are woefully insufficient, and will not permit legislators to know what additional segregation or student placement/movement occurred in their own districts as a result of the program. The annual report section of the bill refers only to “By County if possible”.
- ***Scholarship Student Eligibility***
Tying eligibility to a family adjusted gross income of \$250K will benefit many students whose families are not, relatively speaking, needy. Many taxpayers might believe that families with those income levels (and up to \$300,000 if they choose to have larger families) are capable of paying for private schools. The public should not subsidize a family’s choice to have seven school-aged children in private school. There is no guaranty that the neediest students will be served as a higher priority.
- ***Scholarship Amount***
Providing an unlimited scholarship per student is inconsistent with an argument that this program results in “saving” money as compared with students attending the state’s traditional public schools. As drafted, scholarship organizations could choose to provide full scholarships at select private schools with tuitions much higher than the state average, thus absorbing a disproportionate share of the pool.
- ***Impact of Legislation and Claim of its Intent***
Claim that the bill will stem the tide of “dropping enrollment and ... financial difficulties” of private Legislative attempts to solve private school enrollment and financial problems could conceivably create a continuing mandate that can never be fulfilled.
- ***Role of Charter Schools as Beneficiaries***
Charter schools may be able to benefit from the bill under the definition of “public education entity”. It appears that their administrative and promotional organizations, such as the Coalition for Opportunity in Education, would be able to use the “administrative” 10% permitted in the legislation to recruit for charter schools. If so, it is misleading to say that charter schools will not benefit from the bill.
- ***Administrative Nightmare***
It appears that the bill would create an administrative nightmare for both State Education Department and Department of Taxation and Finance staff. Both the set-up and the monitoring as described in the bill are analogous to the burden recently placed on SED for teacher evaluation. There is NO limitation on the number of additional nonprofit organizations that may be created under this policy—quite different from the Florida model which it presumably emulates.
- ***Corporation Loophole***
Limited Liability Corporation loophole is present in the bill—partnership loophole appears to be closed, but multiple but related non-S corporations could be created to absorb tax liabilities.
- ***Why 75% Feature invites abuse***
This bill opens Pandora’s Box with respect to future attempts to create sham non-profits for tax benefits. For-profit entities would work with newly created non-profit foundations that would be eligible for tax-deductible donations. They would then both profit e.g., from forming additional non-profit charter schools taking more generous tax benefits from the state. Florida experience is that even legislators themselves form and profit from private and charter schools.