S T A T E O F N E W Y O R K

4851

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing the Empire State college savings authority

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 8 of the public authorities law is amended by adding a new title 9-A to read as follows:

TITLE 9-A

EMPIRE STATE COLLEGE SAVINGS AUTHORITY

SECTION 1890. SHORT TITLE.

1890-A. LEGISLATIVE DECLARATIONS.

1890-B. DEFINITIONS.

1890-C. EMPIRE STATE COLLEGE SAVINGS AUTHORITY.

1890-D. EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT.

1890-E. ENROLLMENT.

1890-F. CONTRIBUTIONS.

1890-G. PURCHASE OF PAST CONTRIBUTIONS.

1890-H. BENEFITS.

1890-I. RETURN OF MONIES.

1890-J. TAX IMPLICATIONS.

S 1890. SHORT TITLE. THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY ACT.

S 1890-A. LEGISLATIVE DECLARATIONS. THE LEGISLATURE FINDS AND DETERMINES THAT THE COST OF A COLLEGE EDUCATION IS BECOMING MORE AND MORE A FINANCIAL BURDEN UNABLE TO BE BORNE BY A COLLEGE STUDENT DURING THEIR COLLEGE TENURE. AS A RESULT, PARENTS OR STUDENTS ARE EITHER FORCED TO BEAR CRUSHING FINANCIAL CIRCUMSTANCES OR INCUR HUGE AMOUNTS OF DEBT IN ORDER TO OBTAIN A COLLEGE EDUCATION. WORSE YET, THESE COSTS CONTINUE TO BECOME EVEN FURTHER OUT OF REACH, WITH THE COST OF THE AVERAGE COLLEGE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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EDUCATION DOUBLING IN THE LAST FIVE YEARS OF THE LAST DECADE, DURING A PERIOD OF EXTREMELY LOW INFLATION.

THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT THE STATE OF NEW YORK MUST ADVANCE TWO GOALS TO ASSIST ALL ITS CITIZENS TO MORE EASILY AFFORD A COLLEGE EDUCATION. FIRST TO ASSIST NEW YORKERS TO SAVE FOR THEIR CHILDREN'S EDUCATION, IN A NON-TAXABLE, RESPONSIBLE, AND PRODUCTIVE MANNER THAT WILL NOT OVERBURDEN THE PARENTS. SECOND TO GUARANTEE NEW YORKERS WHO DO SO PARTICIPATE IN THIS PROGRAM, THAT UPON THE CONCLUSION OF THE PAYMENT SCHEDULE, THAT THEY CAN OBTAIN A FOUR YEAR, DEBT FREE, HIGH QUALITY, AND COMPLETELY PAID COLLEGE EDUCATION. SUCH A PREPAID COLLEGE EDUCATION WOULD ADVANCE EDUCATIONAL OPPORTUNITY ACROSS THE STATE AND ESPECIALLY ASSIST MIDDLE CLASS FAMILIES WHO ARE NOT ELIGIBLE FOR OTHER TUITION ASSISTANCE PROGRAMS.

THE LEGISLATURE ADDITIONALLY FINDS AND DETERMINES, THAT THE BEST WAY TO ENSURE THE SUCCESS OF A PREPAID COLLEGE EDUCATION PROGRAM IS TO ESTABLISH A PUBLIC BENEFIT CORPORATION FOR ITS ADMINISTRATION. SUCH PUBLIC BENEFIT CORPORATION WOULD ADVANCE THESE GOALS BY PROVIDING A SOLVENT, ASSURED, AND FISCALLY RESPONSIBLE VEHICLE TO OFFER THE BENEFITS OF SAVING FOR A COLLEGE EDUCATION TO ALL NEW YORKERS. IN DOING SO, IT WOULD OFFER ALL NEW YORK FAMILIES THE OPPORTUNITY TO MORE EASILY FINANCE A COLLEGE EDUCATION.

THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN THIS NEW AGE OF INFORMATION, THE DELIVERY OF A COLLEGE EDUCATION TO EVERY NEW YORKER WHO WANTS ONE IS CRITICALLY IMPORTANT TO OUR STATE. EDUCATION OPENS THE DOORS OF OPPORTUNITY, AND THE PUBLIC BENEFIT CORPORATION ESTABLISHED BY THIS TITLE, WILL PERMIT MANY MORE PEOPLE TO NOT ONLY OPEN THAT DOOR, BUT ALSO WALK THROUGH IT WITHOUT AN UNBEARABLE COST OR DEBT BURDEN THAT WOULD OTHERWISE IMPAIR THEIR FUTURE.

S 1890-B. DEFINITIONS. 1. "PARTICIPANT" SHALL MEAN ANY PERSON WHO IS A RESIDENT OF THE STATE OF NEW YORK FOR WHOSE BENEFIT CONTRIBUTIONS INTO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM HAVE BEEN MADE.

2. "CONTRIBUTOR" SHALL MEAN ANY PERSON WHO MAKES CONTRIBUTIONS INTO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ON BEHALF OF A PARTICIPANT.

3. "ELIGIBLE PARTICIPANT" SHALL MEAN ANY ENROLLED PARTICIPANT FOR WHOM ALL CONTRIBUTIONS PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-F OF THIS TITLE HAVE BEEN MADE.

4. "ENROLLED PARTICIPANT" IS ANY PARTICIPANT WHO IS ENROLLED IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-E OF THIS TITLE.

5. "PROGRAM BENEFITS" SHALL MEAN FREE TUITION FOR FOUR YEARS AT ANY STATE UNIVERSITY OF NEW YORK OR AN EQUIVALENT COLLEGE AID VOUCHER.

6. "EQUIVALENT COLLEGE AID VOUCHER" SHALL MEAN A STATE VOUCHER, PAID ANNUALLY FOR FOUR YEARS TO A RECOGNIZED COLLEGE OR UNIVERSITY ON BEHALF OF AN ELIGIBLE PARTICIPANT, WHICH IS EQUAL TO NINETY-FIVE PERCENT OF THE AMOUNT OF THE ANNUAL TUITION AT A STATE UNIVERSITY OF NEW YORK.

S 1890-C. EMPIRE STATE COLLEGE SAVINGS AUTHORITY. 1. THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY IS HEREBY CREATED. SUCH AUTHORITY SHALL BE A BODY CORPORATE AND POLITIC CONSTITUTING A PUBLIC BENEFIT CORPORATION. THE GOVERNING BODY OF THE AUTHORITY SHALL BE A BOARD. THE AUTHORITY SHALL CONSIST OF NINE MEMBERS WHO ARE RESIDENTS OF THE STATE OF NEW YORK, AS FOLLOWS:

(A) THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK;

(B) THE COMPTROLLER OF THE STATE OF NEW YORK;

(C) A REPRESENTATIVE OF PUBLIC COLLEGES AND UNIVERSITIES APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE;

(D) A REPRESENTATIVE OF PRIVATE COLLEGES AND UNIVERSITIES APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE;

(E) A REPRESENTATIVE OF COLLEGE STUDENTS APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE;

(F) A REPRESENTATIVE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(G) A REPRESENTATIVE APPOINTED BY THE SPEAKER OF THE ASSEMBLY; AND

(H) TWO EX-OFFICIO MEMBERS, ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE AND ONE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY, WHO SHALL BOTH BE NON-VOTING MEMBERS WHOSE COMMENTS SHALL BE ENTERED UPON ANY OFFICIAL RECORD OF BOARD PROCEEDINGS IN THE SAME MANNER AS VOTING MEMBERS' COMMENTS, UNLESS OBJECTION IS RAISED BY ANY OF THE VOTING MEMBERS IN WHICH CASE, NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SUCH COMMENTS BY NON-VOTING MEMBERS SHALL NOT BE SO ENTERED.

ALL THE APPOINTED MEMBERS OF THE GOVERNING BOARD SHALL SERVE FOR A TERM OF FIVE YEARS EACH, WITH EACH TERM COMMENCING FROM THE FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR APPOINTMENT. EACH MEMBER SHALL HOLD OFFICE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED.

2. THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK SHALL BE THE CHAIRPERSON OF THE GOVERNING BOARD AND THE COMPTROLLER OF THE STATE OF NEW YORK SHALL SERVE AS ITS VICE-CHAIRPERSON. THE CHAIRPERSON SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND SHALL BE PRIMARILY RESPONSIBLE FOR THE DISCHARGE OF THE ADMINISTRATIVE FUNCTIONS OF THE AUTHORITY. THE CHAIRPERSON MAY APPOINT AN EXECUTIVE DIRECTOR OF THE AUTHORITY, UPON ADVICE AND CONSENT OF THE BOARD, TO WHICH SUCH ADMINISTRATIVE FUNCTIONS MAY BE DELEGATED. THE EXECUTIVE DIRECTOR SHALL BE DEEMED AN EMPLOYEE OF THE AUTHORITY, AND AS SUCH BE AN EXEMPT MANAGEMENT CONFIDENTIAL EMPLOYEE, WHO IS A PUBLIC OFFICER AND ENTITLED TO AN ANNUAL SALARY AS ESTABLISHED BY THE AUTHORITY BOARD.

3. THE POWER OF SUCH CORPORATION SHALL BE VESTED IN AND EXERCISED BY THE BOARD. THE PURPOSE OF THE AUTHORITY IS TO ADMINISTER THE EMPIRE STATE COLLEGE SAVINGS PROGRAM. SUCH PROGRAM IS INTENDED TO ASSIST NEW YORKERS TO SAVE FOR THEIR CHILDREN'S EDUCATION, IN A NON-TAXABLE, RESPONSIBLE, AND PRODUCTIVE MANNER THAT WILL NOT OVERBURDEN THE PARENTS AND TO GUARANTEE NEW YORKERS WHO DO SO PARTICIPATE IN THIS PROGRAM, THAT UPON THE CONCLUSION OF THE PAYMENT SCHEDULE, THAT THEY CAN OBTAIN A FOUR YEAR, DEBT FREE, HIGH QUALITY, AND COMPLETELY PAID COLLEGE EDUCATION.

4. THE GOVERNING BOARD AND ITS CORPORATE EXISTENCE SHALL CONTINUE UNTIL ITS EXISTENCE SHALL BE TERMINATED BY LAW. UPON THE TERMINATION OF THE EXISTENCE OF THE AUTHORITY, ALL ITS RIGHTS AND PROPERTIES SHALL PASS TO AND BE VESTED IN THE STATE OF NEW YORK. SUCH BOARD MAY DELEGATE TO ONE OR MORE OF ITS MEMBERS OR ITS OFFICERS, AGENTS AND EMPLOYEES SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER.

5. FOUR VOTING MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS. A MAJORITY VOTE OF THE MEMBERS OF THE BOARD PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT SHALL BE SUFFICIENT TO PASS ANY RESOLUTION, EXCEPT AS OTHERWISE SPECIFIED IN THIS TITLE. ALL PROPOSITIONS REQUIRING THE EXPENDITURE OF MONEY OR AFFECTING CONTRACT RIGHTS OR PROPERTY SHALL BE PRESENTED TO THE BOARD IN WRITING. NO RESOLUTION CONTAINING SUCH A PROPOSITION SHALL PASS UNLESS IT RECEIVES APPROVAL OF AT LEAST FOUR BOARD MEMBERS IN OFFICE.

6. THE BOARD SHALL HOLD AT LEAST FOUR REGULAR MEETINGS EVERY YEAR. THE CHAIRPERSON, OR IN HIS OR HER ABSENCE THE VICE-CHAIRPERSON, OR ANY FIVE MEMBERS, MAY CALL A SPECIAL MEETING BY NOTICE AS SPECIFIED BY THE BOARD. ALL MEETINGS OF THE BOARD SHALL BE SUBJECT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

7. MEMBERS OF THE BOARD SHALL BE ENTITLED TO NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR THEIR ACTUAL, NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

8. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, NO OFFICER, AS DEFINED IN THE PUBLIC OFFICERS LAW, OR EMPLOYEE OF THE STATE, OR OF ANY MUNICIPALITY, AS DEFINED IN THE COUNTY LAW OR THE TOWN LAW, SHALL BE DEEMED TO HAVE FORFEITED OR SHALL FORFEIT HIS OR HER PUBLIC OFFICE OR ANY BENEFITS PROVIDED UNDER THE RETIREMENT AND SOCIAL SECURITY LAW OR UNDER ANY PUBLIC RETIREMENT SYSTEM MAINTAINED BY THE STATE OR ANY OF ITS SUBDIVISIONS BY REASON OF HIS OR HER ACCEPTANCE OF MEMBERSHIP ON THE AUTHORITY; PROVIDED, HOWEVER, A MEMBER WHO HOLDS SUCH OTHER PUBLIC OFFICE SHALL RECEIVE NO ADDITIONAL COMPENSATION FOR SERVICES RENDERED PURSUANT TO THIS TITLE, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL, NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF SUCH SERVICES.

9. THE PRINCIPAL OFFICE OF THE AUTHORITY SHALL BE LOCATED IN THE CITY OF ALBANY.

10. THE COMPTROLLER MAY CONDUCT PERIODIC AUDITS OF THE AUTHORITY AND REPORT THE RESULTS OF SUCH AUDITS TO THE GOVERNOR, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE, AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

11. SUBJECT TO THE PROVISIONS OF THIS TITLE, APPOINTED MEMBERS OF THE AUTHORITY MAY ENGAGE IN PRIVATE EMPLOYMENT, OR IN A PROFESSION OR BUSINESS.

S 1890-D. EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT. THE EMPIRE STATE COLLEGE SAVINGS PROGRAM SHALL PROVIDE FOR THE ESTABLISHMENT OF A EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT INTO WHICH ALL CONTRIBUTIONS FOR A PARTICIPANT SHALL BE DEPOSITED AND FROM WHICH ALL DISBURSEMENTS FOR THE PROGRAM'S PURPOSES SHALL BE MADE. THE GOVERNING BOARD SHALL BE THE JOINT TRUSTEES OF THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT AND SHALL INVEST THE MONIES OF THE SAME SO AS TO SECURE THE HIGHEST RATE OF RETURN POSSIBLE WITHOUT JEOPARDIZING THE SOLVENCY OF SUCH ACCOUNT.

S 1890-E. ENROLLMENT. 1. THE PARENT OR LEGAL GUARDIAN OF ANY CHILD WHO IS LESS THAN SIX YEARS OF AGE AND WHO RESIDES IN THE STATE OF NEW YORK MAY ENROLL SUCH CHILD IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM AS A PARTICIPANT OF SUCH PROGRAM. UPON ENROLLMENT AS A PARTICIPANT IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM, CONTRIBUTIONS SHALL BE ANNUALLY MADE TO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-F OF THIS TITLE.

2. THE PARENT OR LEGAL GUARDIAN OF ANY CHILD WHO IS LESS THAN THIRTEEN YEARS OF AGE AND WHO RESIDES IN THE STATE OF NEW YORK MAY ENROLL SUCH CHILD IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM AS A PARTICIPANT OF SUCH PROGRAM. IN ORDER TO ENROLL A CHILD WHO IS LESS THAN THIRTEEN YEARS OF AGE AS A PARTICIPANT IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM, SUCH CHILD, OR A CONTRIBUTOR ON SUCH CHILD'S BEHALF, SHALL PURCHASE ALL SUCH PAST CONTRIBUTIONS PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-G OF THIS TITLE AS ARE NECESSARY TO REPLACE ALL CONTRIBUTIONS THAT WOULD HAVE BEEN MADE IF SUCH CHILD HAD BEEN ENROLLED ON OR BEFORE SUCH CHILD'S SIXTH BIRTHDAY, AND THEREAFTER CONTRIBUTIONS ON BEHALF OF SUCH CHILD SHALL BE ANNUALLY MADE TO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-F OF THIS TITLE.

S 1890-F. CONTRIBUTIONS. IN ORDER FOR PARTICIPANTS TO RECEIVE PROGRAM BENEFITS, THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY BOARD SHALL REQUIRE ANNUAL CONTRIBUTIONS TO BE MADE ON BEHALF OF SUCH PARTICIPANTS TO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM FOR DEPOSIT BY THE AUTHORITY IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT. THE GOVERNING BOARD OF

THE AUTHORITY SHALL DETERMINE THE TIME AND SCHEDULE FOR THE MAKING OF ANNUAL CONTRIBUTIONS BY CONTRIBUTORS ON BEHALF OF PARTICIPANTS. SUCH ANNUAL CONTRIBUTIONS SHALL NOT EXCEED THE AMOUNT OF ONE-QUARTER OF THE ANNUAL TUITION FOR A STATE UNIVERSITY OF NEW YORK AT THE TIME SUCH CONTRIBUTION IS MADE. CONTRIBUTIONS SHALL BE MADE ON BEHALF OF PARTICIPANTS FOR NOT LESS THAN TWELVE CONSECUTIVE YEARS COMMENCING WHEN THE PARTICIPANT IS NOT OLDER THAN FIVE YEARS OF AGE. IF ANY ANNUAL CONTRIBUTION REQUIRED BY THIS SECTION IS NOT MADE ON BEHALF OF AN ENROLLED PARTICIPANT, THEN SUCH PARTICIPANT SHALL BE DEEMED BY THE AUTHORITY TO BE INELIGIBLE TO RECEIVE ANY PROGRAM BENEFITS UNDER THE EMPIRE STATE COLLEGE SAVINGS PROGRAM UNTIL SUCH TIME AS SUCH PAST CONTRIBUTION IS PURCHASED PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-G OF THIS TITLE.

S 1890-G. PURCHASE OF PAST CONTRIBUTIONS. IN ORDER FOR PARTICIPANTS TO RECEIVE PROGRAM BENEFITS, THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY BOARD SHALL REQUIRE ANNUAL CONTRIBUTIONS TO BE MADE ON BEHALF OF SUCH PARTICIPANTS TO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM FOR DEPOSIT BY THE AUTHORITY IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT. IF ANY ANNUAL CONTRIBUTION REQUIRED PURSUANT TO SECTION EIGHTEEN HUNDRED NINETY-F OF THIS TITLE IS NOT MADE BY A PARTICIPANT, OR A CONTRIBUTOR ON BEHALF OF THE PARTICIPANT, THEN SUCH PARTICIPANT, OR A CONTRIBUTOR ON BEHALF OF SUCH PARTICIPANT, MAY PURCHASE THE PAST ANNUAL CONTRIBUTION NOT SO MADE AT THE AMOUNT OF ONE-QUARTER OF THE ANNUAL TUITION FOR A STATE UNIVERSITY OF NEW YORK AT THE TIME SUCH PURCHASE OF THE PAST CONTRIBUTION IS MADE.

S 1890-H. BENEFITS. 1. UPON ENROLLMENT IN A STATE UNIVERSITY OF NEW YORK A PARTICIPANT SHALL NOTIFY SUCH COLLEGE OR UNIVERSITY, IN A MANNER DETERMINED BY THE AUTHORITY GOVERNING BOARD, OF THE FACT THAT THE PARTICIPANT IS AN ENROLLED MEMBER IN GOOD STANDING IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM. UPON NOTIFICATION OF THE FACT THAT SUCH PARTICIPANT IS AN ENROLLED MEMBER IN GOOD STANDING IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM, THE STATE UNIVERSITY OF NEW YORK AT WHICH SUCH PARTICIPANT IS ENROLLED, SHALL SEND ALL TUITION BILLS, ASSESSED AGAINST SUCH PARTICIPANT FOR THE NEXT FOUR YEARS TO THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY, WHEREUPON THE AUTHORITY SHALL DISBURSE FROM THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT AN AMOUNT EQUAL TO NINETY-FIVE PERCENT OF THE TUITION ASSESSED AGAINST THE PARTICIPANT TO THE UNIVERSITY OR COLLEGE AT WHICH THE PARTICIPANT IS SO ENROLLED IN FULL SATISFACTION OF THE TUITION SO ASSESSED.

2. UPON ENROLLMENT IN A COLLEGE OR UNIVERSITY WHICH IS NOT A PART OF THE STATE UNIVERSITY OF NEW YORK, A PARTICIPANT SHALL NOTIFY SUCH PRIVATE COLLEGE OR UNIVERSITY, IN A MANNER DETERMINED BY SUCH COLLEGE OR UNIVERSITY, OF THE FACT THAT THE PARTICIPANT IS AN ENROLLED MEMBER IN GOOD STANDING IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM. UPON NOTIFICATION OF THE FACT THAT SUCH PARTICIPANT IS AN ENROLLED MEMBER IN GOOD STANDING IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM, THE PARTICIPANT OR THE COLLEGE OR UNIVERSITY AT WHICH SUCH PARTICIPANT IS ENROLLED, SHALL SEND ALL TUITION BILLS, ASSESSED AGAINST SUCH PARTICIPANT FOR THE NEXT FOUR YEARS TO THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY, WHEREUPON THE AUTHORITY SHALL DISBURSE FROM THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT AN AMOUNT EQUAL TO NINETY-FIVE PERCENT OF THE TUITION ASSESSED AGAINST A STUDENT ENROLLED AT THE STATE UNIVERSITY OF NEW YORK AT ALBANY, OR THE TUITION ASSESSED AGAINST THE PARTICIPANT BY SUCH PRIVATE COLLEGE OR UNIVERSITY, WHICHEVER IS LESS, AND SHALL FORWARD SUCH AMOUNT TO THE COLLEGE OR UNIVERSITY AT WHICH THE PARTICIPANT IS SO ENROLLED. AT THE TIME OF THE FORWARDING OF SUCH FUNDS TO SUCH COLLEGE OR UNIVERSITY, THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY SHALL FORWARD A COPY OF THE

PAYMENT RECORDS TO SUCH COLLEGE OR UNIVERSITY TO THE PARTICIPANT FOR THEIR RECORDS.

S 1890-I. RETURN OF MONIES. CONTRIBUTIONS MADE ON BEHALF OF ANY PARTICIPANT MAY BE RETURNED BY THE EMPIRE STATE COLLEGE SAVINGS AUTHORITY FROM THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT TO THE CONTRIBUTOR WHO MADE SUCH CONTRIBUTION, UPON A MAJORITY VOTE OF THE AUTHORITY GOVERNING BOARD, IF SUCH BOARD FINDS THAT SUCH CONTRIBUTOR, OR THE PARTICIPANT FOR WHICH THE CONTRIBUTIONS WERE MADE, HAS A PHYSICAL, MENTAL, OR FINANCIAL DISABILITY, AS DEFINED PURSUANT TO A POLICY ESTABLISHED BY THE GOVERNING BOARD OF THE AUTHORITY. SUCH RETURN PAYMENT SHALL BE MADE BY THE AUTHORITY FROM THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT AND SHALL CONSTITUTE ONLY THE PRINCIPAL OF THE ORIGINAL CONTRIBUTION SO MADE AND SHALL NOT INCLUDE ANY INTEREST OR INVESTMENT INCOME THE ACCOUNT EARNED ON SUCH CONTRIBUTION. IN THE EVENT THAT THE AUTHORITY RETURNS A CONTRIBUTION TO A CONTRIBUTOR OR PARTICIPANT, THE AUTHORITY SHALL NOTIFY THE PARTICIPANT AND THE PARTICIPANT'S LEGAL GUARDIAN, AND WITHIN SIXTY DAYS OF THE RECEIPT OF SUCH NOTIFICATION BY THE PARTICIPANT AND THE PARTICIPANT'S LEGAL GUARDIAN, THE PARTICIPANT, OR A DIFFERENT CONTRIBUTOR ON BEHALF OF THE PARTICIPANT, MAY REPLACE THE AMOUNT OF THE RETURNED CONTRIBUTION WITHOUT PENALTY INTO THE EMPIRE STATE COLLEGE SAVINGS PROGRAM.

S 1890-J. TAX IMPLICATIONS. CONTRIBUTIONS, INTEREST ON CONTRIBUTIONS, INVESTMENT GROWTH IN THE EMPIRE STATE COLLEGE SAVINGS PROGRAM ACCOUNT AND PROGRAM BENEFITS SHALL NOT BE DEEMED INCOME TO EITHER THE CONTRIBUTOR OR THE PARTICIPANT OF THE EMPIRE STATE COLLEGE SAVINGS PROGRAM NOR SHALL IT BE DEEMED SUBJECT TO STATE OR LOCAL TAXES.

S 2. This act shall take effect immediately, provided that the Empire State college savings authority shall assume operations on the first of January next succeeding the date on which it shall have become a law.