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

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I N S E N A T E

August 20, 2012

Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to the eligibility for student financial aid of individuals granted deferred action for childhood arrival status and of certain non-residents of the state

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

Section 1. Subdivision 3 of section 661 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

3. Citizenship. An applicant (a) must be a citizen of the United States, or (b) must be an alien lawfully admitted for permanent residence in the United States, or (c) must be an individual of a class of refugees paroled by the attorney general of the United States under his OR HER parole authority pertaining to the admission of aliens to the United States, OR (D) MUST BE AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES.

S 2. Paragraphs a and b of subdivision 5 of section 661 of the education law, as amended by chapter 466 of the laws of 1977, are amended to read as follows:

a. (I) Except as provided in subdivision two of section six hundred seventy-four OF THIS PART AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, an applicant for an award at the undergraduate level of study must either [(i)] (A) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or [(ii)] (B) be a legal resident of the state and have been a legal resident during his OR HER last two semesters of high school either prior to graduation, or prior to admission to college. Provided further that persons shall be eligible to receive awards under section six hundred sixty-eight or section six hundred sixty-nine OF THIS PART who are currently legal residents of the state and are otherwise qualified.

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

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(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES SHALL BE ELIGIBLE FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(A) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA; OR

(C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIXTY-TWO HUNDRED SIX OF THIS CHAPTER.

b. [An] (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN applicant for an award at the graduate level of study must either [(i)] (A) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or [(ii)] (B) be a legal resident of the state and have been a legal resident during his OR HER last academic year of undergraduate study and have continued to be a legal resident until matriculation in the graduate program.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF THE STATE ELIGIBLE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES SHALL BE ELIGIBLE FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(A) ATTENDED A REGISTERED APPROVED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(B) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA; OR

(C) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIXTY-TWO HUNDRED SIX OF THIS CHAPTER.

S 3. Paragraph d of subdivision 5 of section 661 of the education law, as amended by chapter 844 of the laws of 1975, is amended to read as follows:

d. If an applicant for an award allocated on a geographic basis has more than one residence in this state, his OR HER residence for the purpose of this article shall be his OR HER place of actual residence during the major part of the year while attending school, as determined by the commissioner; AND FURTHER, PROVIDED, THAT AN APPLICANT WHO DOES NOT HAVE A RESIDENCE IN THIS STATE AND IS ELIGIBLE FOR AN AWARD PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF THIS SUBDIVISION SHALL BE DEEMED TO RESIDE IN THE GEOGRAPHIC AREA OF THE INSTITUTION OF HIGHER EDUCATION IN WHICH HE OR SHE ATTENDS FOR PURPOSES OF AN AWARD ALLOCATED ON A GEOGRAPHIC BASIS.

S 4. Paragraph e of subdivision 5 of section 661 of the education law, as added by chapter 630 of the laws of 2005, is amended to read as follows:

e. Notwithstanding any other provision of this article to the contrary, the New York state [residency] eligibility [requirement] REQUIREMENTS for receipt of awards [is] SET FORTH IN PARAGRAPHS A AND B OF THIS SUBDIVISION ARE waived for a member, or the spouse or dependent of a member, of the armed forces of the United States on full-time active duty and stationed in this state.

S 5. Paragraph h of subdivision 2 of section 355 of the education law is amended by adding a new subparagraph 10 to read as follows:

(10) SUCH REGULATIONS SHALL FURTHER PROVIDE THAT ANY STUDENT WHO IS NOT A LEGAL RESIDENT OF NEW YORK STATE BUT IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES MAY HAVE THE PAYMENT OF TUITION AND OTHER FEES AND CHARGES REDUCED BY STATE-AIDED PROGRAMS, SCHOLARSHIPS OR OTHER FINANCIAL ASSISTANCE AWARDED UNDER THE PROVISIONS OF ARTICLES THIRTEEN, THIRTEEN-A, FOURTEEN AND FOURTEEN-A OF THIS TITLE, PROVIDED THAT THE STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS TITLE, AS APPLICABLE.

S 6. Subdivision 7 of section 6206 of the education law is amended by adding a new paragraph (d) to read as follows:

(D) THE TRUSTEES SHALL FURTHER PROVIDE THAT ANY STUDENT WHO IS NOT A LEGAL RESIDENT OF NEW YORK STATE BUT IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES MAY HAVE THE PAYMENT OF TUITION AND OTHER FEES AND CHARGES REDUCED BY STATE-AIDED PROGRAMS, SCHOLARSHIPS OR OTHER FINANCIAL ASSISTANCE AWARDED UNDER THE PROVISIONS OF ARTICLES THIRTEEN, THIRTEEN-A, FOURTEEN AND FOURTEEN-A OF THIS CHAPTER, PROVIDED THAT THE STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE.

S 7. Section 6305 of the education law is amended by adding a new subdivision 8-a to read as follows:

8-A. THE PAYMENT OF TUITION AND OTHER FEES AND CHARGES OF A STUDENT WHO IS ATTENDING A COMMUNITY COLLEGE AND WHO IS NOT A LEGAL RESIDENT OF NEW YORK STATE BUT IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED

ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES MAY BE REDUCED BY STATE-AIDED PROGRAMS, SCHOLARSHIPS AND OTHER FINANCIAL ASSISTANCE AWARDED UNDER THE PROVISIONS OF ARTICLES THIRTEEN, THIRTEEN-A, FOURTEEN AND FOURTEEN-A OF THIS CHAPTER, PROVIDED THAT THE STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE.

S 8. Paragraph d of subdivision 3 of section 6451 of the education law, as amended by chapter 149 of the laws of 1972, is amended to read as follows:

d. Any necessary supplemental financial assistance, which may include the cost of books and necessary maintenance for such enrolled students, INCLUDING STUDENTS GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES PROVIDED THAT THE STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided, however, that such supplemental financial assistance shall be furnished pursuant to criteria promulgated by the commissioner with the approval of the director of the budget.

S 9. Subparagraph (v) of paragraph a of subdivision 4 of section 6452 of the education law, as added by chapter 917 of the laws of 1970, is amended to read as follows:

(v) Any necessary supplemental financial assistance, which may include the cost of books and necessary maintenance for such students, INCLUDING STUDENTS GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES PROVIDED THAT THE STUDENT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH A OR SUBPARAGRAPH (II) OF PARAGRAPH B OF SUBDIVISION FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, AS APPLICABLE; provided, however, that such supplemental financial assistance shall be furnished pursuant to criteria promulgated by such universities and approved by the regents and the director of the budget.

S 10. Paragraph (a) of subdivision 2 of section 6455 of the education law, as added by chapter 285 of the laws of 1986, is amended to read as follows:

(a) (I) Undergraduate science and technology entry program moneys may be used for tutoring, counseling, remedial and special summer courses, supplemental financial assistance, program administration, and other activities which the commissioner may deem appropriate. To be eligible for undergraduate collegiate science and technology entry program support, a student must be a resident of New York [who is], OR MEET THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND MUST BE either economically disadvantaged or from a minority group historically underrepresented in the scientific, technical, health and health-related professions, and [who demonstrates] MUST DEMONSTRATE interest in and a potential for a professional career if provided special services. Eligible students must be in good academic standing, enrolled full time in an approved, undergraduate level program of study, as defined by the regents.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF NEW YORK STATE, BUT WHO IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILD-

HOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, SHALL BE ELIGIBLE FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(1) ATTENDED A REGISTERED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(2) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE UNDERGRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN FIVE YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, ATTENDED AN APPROVED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM AN APPROVED NEW YORK STATE HIGH SCHOOL AND APPLIED FOR ATTENDANCE AT AN INSTITUTION OF HIGHER EDUCATION WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(3) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIXTY-TWO HUNDRED SIX OF THIS CHAPTER.

S 11. Paragraph (a) of subdivision 3 of section 6455 of the education law, as added by chapter 285 of the laws of 1986, is amended to read as follows:

(a) (I) Graduate science and technology entry program moneys may be used for recruitment, academic enrichment, career planning, supplemental financial assistance, review for licensing examinations, program administration, and other activities which the commissioner may deem appropriate. To be eligible for graduate collegiate science and technology entry program support, a student must be a resident of New York [who is], OR MEET THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND MUST BE either economically disadvantaged or from a minority group historically underrepresented in the scientific, technical and health-related professions. Eligible students must be in good academic standing, enrolled full time in an approved graduate level program, as defined by the regents.

(II) AN APPLICANT WHO IS NOT A LEGAL RESIDENT OF NEW YORK STATE, BUT EITHER IS A UNITED STATES CITIZEN, A PERMANENT LAWFUL RESIDENT, A LAWFUL NON-IMMIGRANT ALIEN OR AN INDIVIDUAL GRANTED DEFERRED ACTION FOR CHILDHOOD ARRIVAL STATUS PURSUANT TO RULES AND REGULATIONS SET FORTH BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES SHALL BE ELIGIBLE FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY PROVIDED THAT THE STUDENT:

(1) ATTENDED A REGISTERED APPROVED NEW YORK STATE HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM A REGISTERED NEW YORK STATE HIGH SCHOOL AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN TEN YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(2) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA, RECEIVED A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA AND APPLIED FOR ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION FOR THE GRADUATE STUDY FOR WHICH AN AWARD IS SOUGHT WITHIN TEN YEARS OF RECEIVING A STATE HIGH SCHOOL EQUIVALENCY DIPLOMA; OR

(3) IS OTHERWISE ELIGIBLE FOR THE PAYMENT OF TUITION AND FEES AT A RATE NO GREATER THAN THAT IMPOSED FOR RESIDENT STUDENTS OF THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR COMMUNITY COLLEGES AS PRESCRIBED IN SUBPARAGRAPH EIGHT OF PARAGRAPH H OF SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FIVE OR PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION SIXTY-TWO HUNDRED SIX OF THIS CHAPTER.

S 12. The commissioner of education, in consultation with the president of the higher education services corporation, shall establish an application form and procedure that shall allow a student applicant under paragraph d of subdivision 3 of section 661 of the education law, as added by section one of this act, to apply directly to the higher education services corporation or education department for applicable awards without having to submit information to any other state or federal agency. All information contained within the applications filed with such corporation or department shall be deemed confidential.

S 13. This act shall take effect on the ninetieth day after the issuance of regulations on the deferred action for childhood arrivals program by the United States Citizenship and Immigration Services, or on the ninetieth day after it shall have become a law, whichever shall be later, provided however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date; provided that the commissioner of education shall notify the legislative bill drafting commission upon the occurrence of the issuance of the regulations on the deferred action for childhood arrivals program by the United States Citizenship and Immigration Services in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.