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

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I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MOYA, CRESPO, RIVERA, KIM, FARRELL, AUBRY, CASTRO, WEPRIN, JAFFEE, BRENNAN, THIELE, ROBERTS, GIBSON, LAVINE, ORTIZ, KAVANAGH, O'DONNELL, SCARBOROUGH, ROBINSON, BENEDETTO, SIMOTAS, ROSENTHAL, BOYLAND, STEVENSON, PERRY, MAISEL, SCHIMEL, CAHILL, RAMOS, ESPINAL, CLARK, MILLER, DenDEKKER, ARROYO, KELLNER, PAULIN -- Multi-Sponsored by -- M. of A. CYMBROWITZ, DINOWITZ, GOTTFRIED, HOOPER, LIFTON, MILLMAN, NOLAN, RUSSELL -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the education law, in relation to the New York state dream act; and to repeal certain provisions of such law relating thereto

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

Section 1. Short title. This act shall be known and may be cited as the "New York state dream act".

S 2. Subdivision 3 of section 661 of the education law is REPEALED and a new subdivision 3 is added to read as follows:

3. QUALIFICATIONS. A. QUALIFIED STUDENT FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY. A QUALIFIED STUDENT FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY SHALL MEAN:

(I) AN INDIVIDUAL, OTHER THAN ONE DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, WHO HAS BEEN A 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) AN INDIVIDUAL, OTHER THAN ONE DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, WHO IS A RESIDENT OF THE STATE AND WAS A RESIDENT OF THE STATE DURING HIS OR HER LAST TWO SEMESTERS OF HIGH SCHOOL EITHER PRIOR TO GRADUATION, OR PRIOR TO ADMISSION TO COLLEGE; OR

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

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(III) AN INDIVIDUAL WHO:

(1) ATTENDED AN APPROVED NEW YORK HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM AN APPROVED NEW YORK HIGH SCHOOL, AND APPLIED FOR ATTENDANCE AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY WITHIN FIVE YEARS OF RECEIVING A NEW YORK STATE HIGH SCHOOL DIPLOMA; OR

(2) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, RECEIVED A GENERAL EQUIVALENCY DIPLOMA ISSUED WITHIN NEW YORK STATE, AND APPLIED FOR ATTENDANCE AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY WITHIN FIVE YEARS OF RECEIVING A GENERAL EQUIVALENCY DIPLOMA ISSUED WITHIN NEW YORK STATE; 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.

IN ADDITION TO CLAUSES ONE, TWO, AND THREE OF THIS SUBPARAGRAPH, IF THE INDIVIDUAL IS DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, THEN SUCH INDIVIDUAL MUST HAVE ENTERED THE UNITED STATES BEFORE THE AGE OF EIGHTEEN AND BE UNDER THE AGE OF THIRTY-FIVE AT THE TIME OF APPLICATION FOR LOANS AND AWARDS.

B. QUALIFIED STUDENT FOR AN AWARD AT THE GRADUATE LEVEL OF STUDY. A QUALIFIED STUDENT FOR AN AWARD AT THE GRADUATE LEVEL OF STUDY SHALL MEAN:

(I) AN INDIVIDUAL, OTHER THAN ONE DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, WHO HAS BEEN A 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) AN INDIVIDUAL, OTHER THAN ONE DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, WHO IS A RESIDENT OF THE STATE AND WAS A RESIDENT OF THE STATE DURING HIS OR HER LAST TWO SEMESTERS OF HIGH SCHOOL EITHER PRIOR TO GRADUATION, OR PRIOR TO ADMISSION TO COLLEGE; OR

(III) AN INDIVIDUAL WHO:

(1) 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 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.

IN ADDITION TO CLAUSES ONE, TWO, AND THREE OF THIS SUBPARAGRAPH, IF THE INDIVIDUAL IS DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, THEN SUCH INDIVIDUAL MUST HAVE ENTERED THE UNITED STATES BEFORE THE AGE OF EIGHTEEN AND BE UNDER THE AGE OF THIRTY-FIVE AT THE TIME OF APPLICATION FOR LOANS AND AWARDS.

C. NOTWITHSTANDING SUBPARAGRAPH (III) OF PARAGRAPH A OF THIS SUBDIVISION, AN INDIVIDUAL SHALL BE DEEMED A QUALIFIED STUDENT FOR AN AWARD AT THE UNDERGRADUATE LEVEL OF STUDY FOR A PERIOD OF FIVE YEARS IMMEDIATELY FOLLOWING THE IMPLEMENTATION OF THE NEW YORK STATE DREAM ACT PROVIDED THAT THE INDIVIDUAL:

(I) ATTENDED AN APPROVED NEW YORK HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM AN APPROVED NEW YORK HIGH SCHOOL, AND APPLIED FOR ATTENDANCE OR IS ENROLLED AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY; OR

(II) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, RECEIVED A GENERAL EQUIVALENCY DIPLOMA ISSUED WITHIN NEW YORK STATE, AND APPLIED FOR ATTENDANCE OR IS ENROLLED AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY.

IN ADDITION TO SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH, IF THE INDIVIDUAL IS DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, THEN SUCH INDIVIDUAL MUST HAVE ENTERED THE UNITED STATES BEFORE THE AGE OF EIGHTEEN AND BE UNDER THE AGE OF THIRTY-FIVE AT THE TIME OF APPLICATION FOR LOANS AND AWARDS.

D. NOTWITHSTANDING SUBPARAGRAPH (III) OF PARAGRAPH B OF THIS SUBDIVISION, AN INDIVIDUAL SHALL BE DEEMED A QUALIFIED STUDENT FOR AN AWARD AT THE GRADUATE LEVEL OF STUDY FOR A PERIOD OF TEN YEARS IMMEDIATELY FOLLOWING THE IMPLEMENTATION OF THE NEW YORK STATE DREAM ACT PROVIDED THAT THE INDIVIDUAL:

(I) ATTENDED AN APPROVED NEW YORK HIGH SCHOOL FOR TWO OR MORE YEARS, GRADUATED FROM AN APPROVED NEW YORK HIGH SCHOOL, AND APPLIED FOR ATTENDANCE OR IS ENROLLED AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY; OR

(II) ATTENDED AN APPROVED NEW YORK STATE PROGRAM FOR GENERAL EQUIVALENCY DIPLOMA EXAM PREPARATION, RECEIVED A GENERAL EQUIVALENCY DIPLOMA ISSUED WITHIN NEW YORK STATE, AND APPLIED FOR ATTENDANCE OR IS ENROLLED AT AN INSTITUTION OR EDUCATIONAL UNIT OF THE STATE UNIVERSITY;

IN ADDITION TO SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH, IF THE INDIVIDUAL IS DEEMED TO BE NOT LAWFULLY PRESENT IN THE UNITED STATES AS USED IN 8 U.S.C. S 1623, THEN SUCH INDIVIDUAL MUST HAVE ENTERED THE UNITED STATES BEFORE THE AGE OF EIGHTEEN AND BE UNDER THE AGE OF THIRTY-FIVE AT THE TIME OF APPLICATION FOR LOANS AND AWARDS.

S 3. Subparagraph (i) of paragraph b-1 of subdivision 4 of section 661 of the education law is REPEALED.

S 4. Paragraphs a and b of subdivision 5 of section 661 of the education law are REPEALED.

S 5. 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 PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF THIS SECTION 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 6. 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 SET FORTH IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF THIS SECTION is 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 7. 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 RESIDENT OF NEW YORK STATE BUT IS A "QUALIFIED STUDENT" AS DEFINED IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, 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.

S 8. 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 RESIDENT OF NEW YORK STATE BUT IS A "QUALIFIED STUDENT" AS DEFINED IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, 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.

S 9. 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 RESIDENT OF NEW YORK STATE BUT IS A "QUALIFIED STUDENT" AS DEFINED IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER, 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 OR ANY OTHER ARTICLE OF THIS CHAPTER.

S 10. 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 WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE STUDENT IS A "QUALIFIED STUDENT" AS DEFINED IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER; 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 11. 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 WITHOUT LAWFUL IMMIGRATION STATUS PROVIDED THAT THE STUDENT IS A "QUALIFIED STUDENT" AS DEFINED IN PARAGRAPH A, B, C OR D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER; 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 12. 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) 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] A "QUALIFIED STUDENT" PURSUANT TO PARAGRAPH A OR PARAGRAPH C OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER 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.

S 13. 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) 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] A "QUALIFIED STUDENT" PURSUANT TO PARAGRAPH B OR PARAGRAPH D OF SUBDIVISION THREE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS CHAPTER AND MUST BE either economically disadvantaged or from a minority group historically underrepresented in the scientific, technical and health-related professions AND MUST DEMONSTRATE AN 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 graduate level program, as defined by the regents.

S 14. Subparagraphs (i) and (iii) of paragraph a of subdivision 2 of section 695-e of the education law, as amended by chapter 593 of the laws of 2003, are amended to read as follows:

(i) the name, address and social security number [or], employer identification number OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the account owner UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THE NEW YORK STATE DREAM ACT DOES NOT ALLOW FOR A TAXPAYER IDENTIFICATION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION NUMBER SHALL BE ALLOWED UPON THE EXPIRATION OF THE CONTRACT;

(iii) the name, address, and social security number, EMPLOYER IDENTIFICATION NUMBER, OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER of the designated beneficiary, UNLESS A FAMILY TUITION ACCOUNT THAT WAS IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT AMENDED THIS SUBPARAGRAPH DOES NOT ALLOW FOR A TAXPAYER IDENTIFICATION NUMBER, IN WHICH CASE A TAXPAYER IDENTIFICATION NUMBER SHALL BE ALLOWED UPON THE EXPIRATION OF THE CONTRACT; and

S 15. This act shall take effect July 1, 2014.