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

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2009-2010 Regular Sessions

I N  A S S E M B L Y

February 4, 2009

Introduced by M. of A. ESPAILLAT, COLTON, WRIGHT -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, HOOPER, JOHN, TOWNS -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing the bilingual teachers of tomorrow teacher recruitment and retention program

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

Section 1. The education law is amended by adding a new section 3613 to read as follows:

S 3613. BILINGUAL TEACHERS OF TOMORROW TEACHER RECRUITMENT AND RETENTION PROGRAM. 1. DEFINITIONS. A. THE TERM "BILINGUAL TEACHER SHORTAGE AREA" MEANS A PUBLIC SCHOOL OR SUBJECT AREA IN WHICH THERE WAS A SHORTAGE OF BILINGUAL, CERTIFIED TEACHERS IN THE PREVIOUS SCHOOL YEAR AND THERE IS A PROJECTED SHORTAGE IN THE CURRENT SCHOOL YEAR AS DETERMINED BY THE COMMISSIONER.

B. THE TERM "BILINGUAL, CERTIFIED TEACHER" MEANS A TEACHER WHO HOLDS A PERMANENT OR PROFESSIONAL STATE TEACHING CERTIFICATE APPROPRIATE TO THE TEACHING POSITION, INCLUDING THE SUBJECT AREA IF APPLICABLE, IN WHICH HE OR SHE IS TO BE EMPLOYED AND WHO IS FULLY QUALIFIED TO TEACH IN A BILINGUAL EDUCATION PROGRAM.

C. THE TERM "SCHOOL DISTRICT" SHALL MEAN A COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL, OR CITY SCHOOL DISTRICT.

D. THE TERM "BOARD OF EDUCATION" SHALL MEAN THE GOVERNING BOARD OF ANY PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT DEFINED IN PARAGRAPH C OF THIS SUBDIVISION.

E. THE TERM "LOW-PERFORMING, LIMITED ENGLISH PROFICIENCY SCHOOL" SHALL MEAN A SCHOOL BUILDING WHICH IS UNDER REGISTRATION REVIEW OR A SCHOOL BUILDING PERFORMING SIGNIFICANTLY BELOW STATE STANDARDS AS DEFINED BY THE COMMISSIONER AND WHICH HAS A SUBSTANTIAL PROPORTION OF LIMITED ENGLISH PROFICIENCY PUPILS, AS DETERMINED BY THE COMMISSIONER.

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

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F. THE TERM "YEAR OF SERVICE" SHALL MEAN TEN MONTHS OF CONTINUOUS FULL-TIME SERVICE AS A TEACHER DURING A SCHOOL YEAR, GENERALLY OCCURRING BETWEEN SEPTEMBER FIRST AND JUNE THIRTIETH.

2. APPLICATION AND FUNDING. A. GRANTS SHALL BE MADE TO SCHOOL DISTRICTS FOR BILINGUAL, CERTIFIED TEACHER RECRUITMENT AND RETENTION ACTIVITIES NECESSARY TO INCREASE THE SUPPLY OF BILINGUAL, CERTIFIED TEACHERS IN SCHOOL DISTRICTS EXPERIENCING A BILINGUAL, CERTIFIED TEACHER SHORTAGE IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION AND IN SCHOOL DISTRICTS CONTAINING A LOW-PERFORMING, LIMITED ENGLISH PROFICIENCY SCHOOL.

B. SUCH GRANTS SHALL BE AWARDED TO SCHOOL DISTRICTS, WITHIN THE LIMITS OF FUNDS APPROPRIATED THEREFOR, THROUGH A COMPETITIVE PROCESS THAT TAKES INTO CONSIDERATION THE MAGNITUDE OF ANY SHORTAGE OF BILINGUAL, CERTIFIED TEACHERS IN THE SCHOOL DISTRICT, THE FISCAL CAPACITY AND GEOGRAPHIC SPARSITY OF THE DISTRICT, AND THE NUMBER OF NEW BILINGUAL, CERTIFIED TEACHERS THE SCHOOL DISTRICT INTENDS TO HIRE IN THE COMING SCHOOL YEAR. GRANTS PROVIDED PURSUANT TO THIS SECTION SHALL BE USED ONLY FOR THE PURPOSES ENUMERATED IN THIS SECTION.

C. NOT MORE THAN SIXTY PERCENT OF THE FUNDS ALLOCATED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO ANY ONE SCHOOL DISTRICT AND PROVIDED FURTHER THAT A CITY SCHOOL DISTRICT IN A CITY WITH POPULATIONS IN EXCESS OF ONE MILLION INHABITANTS MAY, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ALLOCATE A PORTION OF THE GRANT RECEIVED PURSUANT TO THIS SECTION FOR BILINGUAL, CERTIFIED TEACHER RECRUITMENT AND OUTREACH ACTIVITIES PROVIDED THAT ANY ALLOCATION FOR BILINGUAL, CERTIFIED TEACHER RECRUITMENT AND OUTREACH ACTIVITIES SHALL NOT EXCEED TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

D. IN ALLOCATING GRANTS PURSUANT TO THIS SECTION, A SCHOOL DISTRICT SHALL GIVE PRIORITY IN THE FOLLOWING ORDER:

(1) FIRST, TO A SCHOOL UNDER REGISTRATION REVIEW THAT IS DESIGNATED AS A BILINGUAL TEACHER SHORTAGE AREA;

(2) SECOND, TO ANY LOW-PERFORMING, LIMITED ENGLISH PROFICIENCY SCHOOL; AND

(3) THIRD, TO ANY SCHOOL THAT IS DESIGNATED AS A BILINGUAL TEACHER SHORTAGE AREA.

E. ANY SCHOOL DISTRICT RECEIVING FUNDS UNDER THIS SECTION SHALL MAINTAIN ANY LOCAL EFFORT IN THE CURRENT YEAR EQUIVALENT TO SUCH EFFORT IN THE BASE YEAR FOR ANY LOCAL PROGRAM RELATED TO THE RECRUITMENT OR RETENTION OF TEACHERS OR ANY PROGRAM THAT HAS PURPOSES THAT ARE SIMILAR TO ANY PURPOSE OF THIS SECTION OR THE DISTRICT SHALL PROVIDE A LOCAL MATCH TO STATE FUNDS RECEIVED PURSUANT TO THIS SECTION. STATE FUNDS PROVIDED PURSUANT TO THIS SECTION SHALL NOT SUPPLANT LOCAL FUNDS FOR ANY PURPOSE SIMILAR TO THE PURPOSES OF THIS SECTION.

F. APPLICATIONS BY A SCHOOL DISTRICT FOR FUNDING PURSUANT TO THIS SECTION SHALL BE FILED WITH THE COMMISSIONER, IN A FORM DETERMINED BY THE COMMISSIONER, BY JUNE FIRST OF THE BASE YEAR AND SCHOOL DISTRICTS SHALL BE NOTIFIED OF THEIR GRANT AWARD BY JUNE THIRTIETH OF THE BASE YEAR, PROVIDED THAT IN ANY YEAR SUCH APPLICATION AND AWARD DATES MAY BE MODIFIED BY THE COMMISSIONER FOR THE REASONABLE ADMINISTRATION OF THE PROGRAM. SUCH APPLICATION SHALL INCLUDE A PLAN BY THE SCHOOL DISTRICT FOR THE EXPENDITURE OF THE FUNDS IN EACH CATEGORY OF ALLOWABLE EXPENSES AUTHORIZED BY SUBDIVISION THREE OF THIS SECTION, AND SUCH EXPENDITURES SHALL BE CONSISTENT WITH SUCH PLAN AND THE PROVISIONS OF THIS SECTION.

G. A PERSON RECEIVING AN AWARD PURSUANT TO ANY SUBDIVISION OF THIS SECTION SHALL NOT BE ELIGIBLE FOR AN AWARD PURSUANT TO ANY OTHER SUBDIVISION OF THIS SECTION IN A SCHOOL YEAR.

3. BILINGUAL TEACHERS OF TOMORROW TEACHER RECRUITMENT INCENTIVE PROGRAM. BILINGUAL TEACHERS OF TOMORROW TEACHER RECRUITMENT INCENTIVE AWARDS MAY BE AVAILABLE TO TEACHERS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION TO ATTRACT TEACHERS TO EMPLOYMENT IN BILINGUAL TEACHER SHORTAGE AREAS.

A. ELIGIBILITY. TO BE ELIGIBLE FOR AN AWARD PURSUANT TO THIS SUBDIVISION, AN APPLICANT SHALL:

(1) BE A BILINGUAL, CERTIFIED TEACHER;

(2) AGREE TO A SERVICE OBLIGATION OF ONE YEAR OF SERVICE IN A BILINGUAL TEACHER SHORTAGE AREA AS A CONDITION OF RECEIVING AN AWARD PURSUANT TO THIS SUBDIVISION; AND

(3) BE EMPLOYED FOR THE FIRST TIME AS A BILINGUAL, CERTIFIED TEACHER IN THE SCHOOL DISTRICT.

B. APPLICATION AND SELECTION. (1) THE BOARD OF EDUCATION SHALL DETERMINE THE FORM OF THE APPLICATION AND THE APPLICATION PROCESS FOR TEACHERS DEEMED ELIGIBLE FOR THE AWARD, AND SHALL IN ITS DISCRETION SELECT THE NUMBER OF ELIGIBLE APPLICANTS WHO WILL RECEIVE AN AWARD PURSUANT TO THIS SUBDIVISION.

(2) IF THE NUMBER OF ELIGIBLE APPLICANTS EXCEEDS THE NUMBER OF AWARDS DETERMINED BY THE BOARD PURSUANT TO THIS SUBDIVISION, THEN THE BOARD SHALL USE AN OBJECTIVE COMPETITIVE PROCESS BASED ON EDUCATIONAL QUALIFICATIONS TO DETERMINE WHICH ELIGIBLE APPLICANTS SHALL RECEIVE AWARDS.

C. PAYMENT OF AWARDS. (1) ANNUAL AWARDS FROM STATE AND LOCAL FUNDS PROVIDED FOR THIS PURPOSE SHALL BE PAID BY THE BOARD OF EDUCATION TO THE AWARD RECIPIENT. AWARD RECIPIENTS SHALL BE ENTITLED TO RECEIVE AWARDS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION AND SUCH AWARDS SHALL BE IN ADDITION TO AND NOT PART OF ANY AWARD RECIPIENT'S BASE SALARY.

(2) THE INITIAL ANNUAL AWARD SHALL BE TEN THOUSAND DOLLARS, AND SUCH INITIAL AWARD MAY BE RENEWABLE EACH YEAR, FOR UP TO THREE ADDITIONAL YEARS, PROVIDED THAT THE RECIPIENT AGREES TO ONE YEAR OF SERVICE AS A FULL-TIME BILINGUAL, CERTIFIED TEACHER IN A BILINGUAL TEACHER SHORTAGE AREA FOR EACH YEAR OF A RENEWED AWARD AND HAS PROVIDED SATISFACTORY SERVICE IN ANY PRIOR YEAR IN WHICH AN INITIAL OR RENEWED AWARD WAS GRANTED TO THE RECIPIENT. NO AWARDS SHALL BE MADE FOR LESS THAN ONE SCHOOL YEAR OF SERVICE AND THE SUM OF ANY INITIAL AND RENEWED AWARDS SHALL NOT EXCEED FORTY THOUSAND DOLLARS.

AWARDS MADE PURSUANT TO THIS SUBDIVISION SHALL BE USED TO REIMBURSE ANY EDUCATIONAL COSTS, INCLUDING THOSE FOR WHICH STUDENT LOANS MAY HAVE BEEN TAKEN, INCURRED BY THE RECIPIENT PRIOR TO RECEIPT OF THE AWARD FOR CERTIFICATION AS A TEACHER IN THE PUBLIC SCHOOLS OF THE STATE.

(3) THE BOARD OF EDUCATION SHALL DEVELOP AND SECURE FROM THE AWARD RECIPIENT A WRITTEN AGREEMENT OUTLINING THE SERVICE OBLIGATION. SUCH AGREEMENT SHALL INCLUDE PROVISIONS FOR THE RECIPIENT TO REPAY THE AMOUNT OF THE AWARD TO THE SCHOOL DISTRICT IF THE RECIPIENT FAILS TO COMPLETE HIS OR HER SERVICE OBLIGATION IN ANY YEAR WHERE AN INITIAL OR RENEWED AWARD IS GRANTED, AND SUCH REPAID AMOUNTS SHALL BE DEDUCTED FROM ANY GRANT AMOUNTS DUE TO THE DISTRICT FROM THE STATE PURSUANT TO THIS SECTION. UPON A WRITTEN APPEAL BY AN AWARD RECIPIENT, THE BOARD OF EDUCATION, IN ITS DISCRETION, MAY PROVIDE A WAIVER OF REPAYMENT PROVISIONS FOR AN AWARD RECIPIENT WHO FAILS TO COMPLETE HIS OR HER SERVICE REQUIREMENT FOR DOCUMENTED REASONS OF HEALTH OR OTHER SEVERE HARDSHIP, AS DETERMINED BY THE COMMISSIONER.

D. NOTIFICATION. THE BOARD OF EDUCATION SHALL NOTIFY BOTH SUCCESSFUL AND UNSUCCESSFUL APPLICANTS BY SEPTEMBER FIRST OF ANY SCHOOL YEAR FOR WHICH AN INITIAL OR RENEWED AWARD IS PROVIDED TO TEACHERS PURSUANT TO THIS SUBDIVISION.

4. REPORTING. BY NOVEMBER FIRST FOLLOWING THE COMPLETION OF EACH SCHOOL YEAR, THE COMMISSIONER SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE REGARDING THE BILINGUAL TEACHERS OF TOMORROW TEACHER RECRUITMENT AND RETENTION PROGRAM. SUCH REPORT SHALL LIST THE AMOUNT OF EACH SCHOOL DISTRICT'S TOTAL GRANT PURSUANT TO THIS SECTION, THE USES OF THE GRANT BY EACH ELIGIBLE CATEGORY OF EXPENSE, AND THE NUMBER OF AWARDS GRANTED BY TYPE PURSUANT TO THIS SECTION, AS WELL AS AN ANALYSIS OF THE EFFECTIVENESS OF THE PROGRAM IN RECRUITING AND RETAINING BILINGUAL, CERTIFIED TEACHERS IN THE PUBLIC SCHOOLS OF THE STATE DESIGNATED AS BILINGUAL TEACHER SHORTAGE AREAS.

S 2. This act shall take effect immediately.