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

5509

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. ERRIGO, BALL, FINCH, KOLB, McKEVITT, TOBACCO, TOWNSEND, WALKER -- Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, BURLING, CALHOUN, CONTE, MAYERSOHN, QUINN -- read once and referred to the Committee on Education

AN ACT to amend the state finance law and the education law, in relation to the New York state school energy efficiency fund; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The state finance law is amended by adding a new section 99-q to read as follows:

S 99-Q. NEW YORK STATE SCHOOL ENERGY EFFICIENCY FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF EDUCATION A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE SCHOOL ENERGY EFFICIENCY FUND".

2. THE FUND SHALL CONSIST OF ONE PERCENT OF ALL TAXES COLLECTED FROM THE SALE OF DISTILLATE AND RESIDUAL NON-RESIDENTIAL FUELS, AS PROVIDED BY SECTIONS ONE HUNDRED EIGHTY-TWO AND ONE HUNDRED EIGHTY-TWO-A OF THE TAX LAW, AND TRANSFERRED TO SUCH FUND PURSUANT TO LAW, ALL MONIES REQUIRED BY ANY PROVISION OF LAW TO BE PAID INTO OR CREDITED TO SUCH FUND, AND ANY INTEREST EARNINGS WHICH MAY ACCRUE FROM THE INVESTMENT OF MONIES IN SUCH FUND. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO SUCH FUND ACCORDING TO LAW.

3. THE COMMISSIONER OF EDUCATION SHALL PROMULGATE ANY NECESSARY RULES AND REGULATIONS FOR THE APPLICATION AND DISTRIBUTION OF ANY FUNDS PURSUANT TO THIS SECTION. THE COMMISSIONER OF EDUCATION SHALL ADMINISTER THE APPLICATION BASED GRANT PROGRAM AND DISTRIBUTE FUNDS TO SCHOOLS DURING THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN AND TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEARS.

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

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4. THE COMMISSIONER OF EDUCATION SHALL DETERMINE THE AMOUNT OF EACH GRANT BASED LARGELY UPON:

(A) THE AMOUNT THAT ACTUAL ENERGY COSTS EXCEED THE AMOUNT BUDGETED BY THE SCHOOL DISTRICT;

(B) THE EXTENT OF THE ENERGY CONSERVATION MEASURES TO BE TAKEN BY THE DISTRICT TO HELP REDUCE COSTS;

(C) THE ABILITY OF THE SCHOOL DISTRICT TO ABSORB INCREASED ENERGY COSTS WITHOUT SIGNIFICANTLY REDUCING ACADEMIC PROGRAMS;

(D) THE IMPACT OF HIGH ENERGY COSTS ON SCHOOL PROPERTY TAXPAYERS; AND

(E) ANY OTHER CRITERIA DEEMED APPROPRIATE BY SUCH COMMISSIONER.

5. MONEYS IN THE FUND FOR THE NEW YORK STATE SCHOOL DISTRICTS SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF EDUCATION AND THE COMPTROLLER.

6. MONEYS IN SUCH FUND SHALL BE EXPENDED ONLY TO THE NEW YORK STATE SCHOOL DISTRICTS.

7. ALL PAYMENTS FROM SUCH FUND SHALL BE MADE BY THE DEPARTMENT OF EDUCATION AFTER AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED BY THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE.

S 2. Section 408 of the education law is amended by adding a new subdivision 7 to read as follows:

7. THE COMMISSIONER MAY PROMULGATE RULES AND REGULATIONS RELATING TO THE CONTRACTING OF ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING SCHOOL BUILDINGS INCLUDING LIGHTING IMPROVEMENTS, AIR CONDITIONING REPLACEMENT, BOILER UPGRADES, TEMPERATURE CONTROL UPGRADES, CHILLER UPGRADES OR REPLACEMENT, WINDOW REPLACEMENT AND INSULATION UPGRADES. SUCH REGULATIONS SHALL PROVIDE FOR AN APPRAISAL OF ESTIMATES OF THE COST OF RENOVATION, CONSTRUCTION AND NEW EQUIPMENT AS MAY BE NECESSARY AND LIMITATIONS ON THE COST OF ACQUISITION AND RENOVATION, IN TAKING INTO CONSIDERATION THE OPERATING COST SAVINGS. SUCH REGULATIONS SHALL ALSO INCLUDE, BUT NOT BE LIMITED TO:

A. COST ALLOWANCES FOR ENERGY EFFICIENCY IMPROVEMENTS SHALL NOT EXCEED ONE HUNDRED PERCENT OF THE COST ALLOWANCES.

B. IN CASES WHERE A CONTRACTOR GUARANTEES THE PAY BACK ON AN ENERGY EFFICIENCY IMPROVEMENT AS PART OF THE CONTRACT, THE PERIOD OF PROBABLE USEFUL LIFE SHALL BE FOR THE LENGTH OF THE GUARANTEED PAY BACK.

S 3. This act shall take effect immediately and shall expire and be deemed repealed July 1, 2012.