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

5205

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. CROUCH, KOLB, BURLING, HAWLEY, MOLINARO, GIGLIO -- Multi-Sponsored by -- M. of A. AMEDORE, BACALLES, BARCLAY, FINCH, OAKS, QUINN, RAIA -- read once and referred to the Committee on Agriculture

AN ACT to enact the "New York farmer recruitment and retention act of 2009"; to direct the board of regents and education department to study agricultural education programs (Part A); to amend the education law, in relation to enacting the "agriculture producer scholarship act" and making appropriations therefor (Part B); to amend the education law, in relation to establishing the producer's loan forgiveness program (Part C); to direct the board of regents and the education department to implement an outreach program to encourage elementary and secondary students to enter the agricultural field (Part D); and to direct the commissioner of agriculture and markets to report on reducing the taxation for landowners who use their land for agricultural production (Part E)

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 farmer recruitment and retention act of 2009".

S 2. This act enacts into law major components of legislation which are necessary to enact this chapter of the laws of 2009. Each component is wholly contained within a Part identified as Parts A through E. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

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

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PART A

Section 1. Legislative findings and intent. The legislature hereby recognizes the need to increase the number of producers to continue the long tradition of agricultural production in New York state. The average age of a farm operator in the state is fifty-four years of age. In 2004, less than 1,000 students were awarded degrees in agriculture by a college in this state and the majority of these degrees were not awarded in a discipline leading to a career as a producer. The agricultural industry has a substantial impact on the overall economic health and well-being of the state, and it is in the best interest of the state to ensure that enough producers are recruited and retained in agricultural production.

S 2. The board of regents and the education department, in consultation with the department of agriculture and markets, shall:

(a) Investigate current education programs for agriculture in vocational-technical schools, community colleges and universities, to identify the scope of agricultural education programs in the state;

(b) Identify non-traditional college education programs administered in other states and other countries;

(c) Develop a model for articulation and career mobility to enable producers in every agricultural production field to progress to ownership or management of land used in agricultural production, as defined in subdivision 4 of section 301 of the agriculture and markets law; and

(d) Develop models for innovative agriculture education programs that will encourage individuals to become producers, utilizing an agricultural mentoring program from degree award to retirement, including continuing education opportunities.

S 3. The board of regents and the education department shall present their final findings and recommendations to the legislature on or before January 1, 2010.

S 4. This act shall take effect immediately.

PART B

Section 1. Short title. This act shall be known and may be cited as the "agriculture producer scholarship act".

S 2. Section 605 of the education law is amended by adding a new subdivision 13 to read as follows:

13. AGRICULTURE PRODUCER SCHOLARSHIPS. A. PURPOSE. THE COMMISSIONER SHALL AWARD SCHOLARSHIPS FOR THE PURPOSE OF INCREASING THE NUMBER OF PRODUCERS IN THE STATE. SUCH SCHOLARSHIPS SHALL BE AWARDED ON A COMPETITIVE BASIS, IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE COMMISSIONER, TO STATE RESIDENTS WHO DEMONSTRATE ACADEMIC MERIT FOR ADMISSION TO AN UNDERGRADUATE AGRICULTURE PROGRAM WHICH THE COMMISSIONER DETERMINES WILL ENHANCE THE RECIPIENT'S PROFICIENCY AS AN AGRICULTURAL OPERATOR.

B. ELIGIBILITY. TO BE ELIGIBLE FOR AN AWARD PURSUANT TO THIS SUBDIVISION, APPLICANTS SHALL AGREE TO SERVE, UPON COMPLETION OF THE DEGREE PROGRAM, AS A PRODUCER ON A FULL-TIME BASIS WITHIN THE STATE. SUCH SERVICE SHALL BE COMPLETED IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE COMMISSIONER.

C. AGREEMENTS. THE PRESIDENT SHALL, IN CONSULTATION WITH THE COMMISSIONER, DEVELOP AND SECURE FROM EACH SUCCESSFUL APPLICANT A WRITTEN AGREEMENT TO SERVE AS AN AGRICULTURAL OPERATOR IN THIS STATE. WITHIN SUCH TIME AS THE COMMISSIONER SHALL BY REGULATION PROVIDE, A RECIPIENT OF AN AWARD SHALL HAVE SERVED FOR THAT NUMBER OF MONTHS CALCULATED BY

MULTIPLYING BY NINE THE NUMBER OF ANNUAL PAYMENTS RECEIVED BY THE RECIPIENT. IN NO CASE SHALL THE TOTAL NUMBER OF MONTHS OF SERVICE REQUIRED BE LESS THAN TWENTY-FOUR. IF A RECIPIENT FAILS TO COMPLY FULLY WITH SUCH CONDITIONS, THE PRESIDENT SHALL BE ENTITLED TO RECEIVE FROM SUCH RECIPIENT AN AMOUNT TO BE DETERMINED BY THE FORMULA:

$$A=2B\,\frac{(T-S)}{T}$$

IN WHICH "A" IS THE AMOUNT THE PRESIDENT IS ENTITLED TO RECOVER; "B" IS THE SUM OF ALL PAYMENTS MADE TO THE RECIPIENT AND THE INTEREST ON SUCH AMOUNT WHICH WOULD BE PAYABLE IF AT THE TIMES SUCH AWARDS WERE PAID THEY WERE LOANS BEARING INTEREST AT THE MAXIMUM PREVAILING RATE; "T" IS THE TOTAL NUMBER OF MONTHS IN THE RECIPIENT'S PERIOD OF OBLIGATED SERVICES; AND "S" IS THE NUMBER OF MONTHS OF SERVICE ACTUALLY RENDERED BY THE RECIPIENT. ANY AMOUNT WHICH THE PRESIDENT IS ENTITLED TO RECOVER PURSUANT TO THIS PARAGRAPH SHALL BE PAID WITHIN THE FIVE-YEAR PERIOD BEGINNING ON THE DATE THAT THE RECIPIENT FAILED TO COMPLY WITH THIS SERVICE CONDITION. NOTHING IN THE WRITTEN AGREEMENT SHALL AFFECT THE TERMS OF EMPLOYMENT OF THE INDIVIDUAL WHO SHALL NEGOTIATE, SEPARATE AND APART FROM THE PROGRAM, HIS OR HER SALARY AND OTHER FORMS OF EMPLOYMENT WITH AN AGENCY, INSTITUTION OR A PROGRAM, IN WHICH HE OR SHE SHALL BE EMPLOYED. ANY OBLIGATION TO COMPLY WITH SUCH PROVISIONS AS OUTLINED IN THIS SUBDIVISION SHALL BE CANCELLED UPON THE DEATH OF THE RECIPIENT. THE COMMISSIONER SHALL MAKE REGULATIONS TO PROVIDE FOR THE WAIVER OR SUSPENSION OF ANY FINANCIAL OBLIGATION WHICH WOULD INVOLVE EXTREME HARDSHIP.

D. REPORT. A RECIPIENT OF AN AWARD SHALL REPORT ANNUALLY TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION, ON FORMS PRESCRIBED BY IT, AS TO THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE RECIPIENT BEGINS TO SERVE AS AN AGRICULTURE PRODUCER IN THIS STATE AND CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE REQUIRED SERVICES. IF THE RECIPIENT SHALL FAIL TO FILE ANY REPORT REQUIRED PURSUANT TO THIS PARAGRAPH WITHIN THIRTY DAYS OF WRITTEN NOTICE TO THE RECIPIENT, MAILED TO THE ADDRESS SHOWN ON THE LAST APPLICATION FOR AN AWARD OR LAST REPORT FILED, WHICHEVER IS LATER, THE PRESIDENT MAY IMPOSE A FINE OF UP TO ONE THOUSAND DOLLARS. THE PRESIDENT SHALL HAVE THE DISCRETION TO WAIVE THE FILING OF A REPORT, EXCUSE A DELAY IN FILING OR A FAILURE TO FILE A REPORT, OR WAIVE OR REDUCE ANY FINE IMPOSED FOR GOOD CAUSE SHOWN.

S 3. The education law is amended by adding a new section 671-a to read as follows:

S 671-A. AGRICULTURE PRODUCER SCHOLARSHIPS. 1. NUMBER AND CERTIFICATION. TWENTY-FIVE AGRICULTURE PRODUCER SCHOLARSHIPS SHALL BE AWARDED IN THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN ACADEMIC YEAR AND AN ADDITIONAL TWENTY-FIVE SCHOLARSHIPS SHALL BE AWARDED IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE ACADEMIC YEAR. SUCH SCHOLARSHIPS SHALL BE ALLOCATED AS PROVIDED IN SUBDIVISION THIRTEEN OF SECTION SIX HUNDRED FIVE OF THIS TITLE TO ELIGIBLE STUDENTS AS CERTIFIED TO THE PRESIDENT BY THE COMMISSIONER.

2. DURATION. EACH SUCH SCHOLARSHIP SHALL ENTITLE THE RECIPIENT TO AN ANNUAL AWARD FOR EACH YEAR WHILE ENROLLED IN AN APPROVED COURSE OF STUDY LEADING TO AN UNDERGRADUATE DEGREE IN AGRICULTURE, BUT NOT EXCEEDING THE NORMAL PERIOD OF STUDY REQUIRED TO COMPLETE THE REQUIREMENTS FOR THE PROGRAM, AS SUCH APPROVED COURSES AND NORMAL PERIODS OF STUDY ARE DETERMINED BY THE COMMISSIONER.

3. AMOUNT. THE PRESIDENT SHALL MAKE ANNUAL AWARDS OF FIFTEEN THOUSAND DOLLARS, FOR UP TO FOUR ACADEMIC YEARS FOR ANY RECIPIENT, EXCEPT THAT SUCH ANNUAL AWARD SHALL NOT EXCEED THE RECIPIENT'S COST OF ATTENDANCE. FOR THE PURPOSES OF THIS SUBDIVISION, "COST OF ATTENDANCE" SHALL MEAN THE COST OF: TUITION AT AN APPROVED UNDERGRADUATE PROGRAM IN AGRICULTURE; LABORATORY AND OTHER FEES; ROOM AND BOARD; SUPPLIES; HEALTH INSURANCE COVERAGE; BOOKS AND A STIPEND FOR DAILY LIVING EXPENSES IN AN AMOUNT TO BE DETERMINED BY THE PRESIDENT IN CONSULTATION WITH THE COMMISSIONER.

S 4. The sum of fifty thousand dollars ($50,000), or so much thereof as may be necessary, is hereby appropriated to the education department out of any moneys in the state treasury in the general fund to the credit of the state operations account, not otherwise appropriated, for its services and expenses incurred to administer and implement the provisions of this act in the 2010--2011 state fiscal year. Such sum shall be payable on vouchers certified or approved by the commissioner of education upon audit and warrant of the state comptroller in the manner prescribed by law.

S 5. The sum of one million five hundred thousand dollars ($1,500,000), or so much thereof as may be necessary, is hereby appropriated to the higher education services corporation out of any moneys in the state treasury in the general fund to the credit of the local assistance account, not otherwise appropriated, to carry out the purposes of this act, including costs of award of scholarships and for its services and expenses incurred to administer and implement the provisions of this act in the 2010--2011 state fiscal year. Such sum shall be payable on vouchers certified or approved by the president of the higher education services corporation upon audit and warrant of the state comptroller in the manner prescribed by law.

S 6. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART C

Section 1. Section 605 of the education law is amended by adding a new subdivision 14 to read as follows:

14. PRODUCER'S LOAN FORGIVENESS PROGRAM. REGENTS LOAN FORGIVENESS AWARDS SHALL BE AWARDED ANNUALLY TO FARM OPERATOR APPLICANTS WHO AGREE TO OPERATE AN AGRICULTURAL OPERATION ON A FULL-TIME BASIS. SUCH AWARDS SHALL BE GRANTED ANNUALLY, AND SHALL BE CLASSIFIED AND ALLOCATED IN ACCORDANCE WITH REGENTS RULES.

A. (1) THE APPLICANT SHALL BE A RESIDENT OR PERMANENT RESIDENT ALIEN OF THIS STATE AND A GRADUATE OF AN INSTITUTION OF HIGHER EDUCATION APPROVED OR REGISTERED BY THE REGENTS.

(2) THE APPLICANT SHALL AGREE TO ENGAGE IN SUCH EMPLOYMENT FOR A PERIOD OF TIME WHICH SHALL BE NOT LESS THAN FIVE YEARS.

B. PRIORITY SHALL BE ACCORDED TO APPLICANTS IN THE FOLLOWING ORDER:

(1) FIRST, TO ANY APPLICANT WHO IS COMPLETING THE SECOND, THIRD, FOURTH OR FIFTH YEAR OF THE SERVICE REQUIREMENT AND IS REAPPLYING FOR A NEW AWARD;

(2) SECOND, TO ANY APPLICANT WHO IS ECONOMICALLY DISADVANTAGED AS DEFINED BY THE REGENTS;

IN THE EVENT THAT THERE ARE MORE APPLICANTS WHO HAVE THE SAME PRIORITY THAN THERE ARE REMAINING SCHOLARSHIPS, THE COMMISSIONER SHALL DISTRIBUTE THE REMAINING NUMBER OF SUCH SCHOLARSHIPS BY MEANS OF A LOTTERY OR OTHER FORM OF RANDOM SELECTION.

C. THE COMMISSIONER SHALL THEN FORWARD APPROVED APPLICATIONS TO THE PRESIDENT AND SHALL NOTIFY UNSUCCESSFUL APPLICANTS.

D. THE PRESIDENT SHALL NOTIFY APPLICANTS OF THEIR AWARD ENTITLEMENT.

E. THE PRESIDENT SHALL, IN CONSULTATION WITH THE COMMISSIONER, DEVELOP AND SECURE FROM EACH SUCCESSFUL APPLICANT A WRITTEN AGREEMENT TO ENGAGE IN SUCH EMPLOYMENT, AS APPROPRIATE. WITHIN SUCH TIME AS THE COMMISSIONER SHALL BY REGULATION PROVIDE, A RECIPIENT OF AN AWARD SHALL HAVE ENGAGED IN SUCH EMPLOYMENT AS APPROPRIATE, FOR THAT NUMBER OF MONTHS CALCULATED BY MULTIPLYING BY TWELVE THE NUMBER OF ANNUAL PAYMENTS RECEIVED BY THE RECIPIENT. IN NO CASE SHALL THE TOTAL NUMBER OF MONTHS OF SERVICE REQUIRED BE LESS THAN TWENTY-FOUR. IF A RECIPIENT FAILS TO COMPLY FULLY WITH SUCH CONDITIONS, THE PRESIDENT SHALL BE ENTITLED TO RECEIVE FROM SUCH RECIPIENT AN AMOUNT TO BE DETERMINED BY THE FORMULA:

$$A=\frac{B(T-S)}{T}$$

IN WHICH "A" IS THE AMOUNT THE PRESIDENT IS ENTITLED TO RECOVER; "B" IS THE SUM OF ALL PAYMENTS MADE TO THE RECIPIENT AND THE INTEREST ON SUCH AMOUNT WHICH WOULD BE PAYABLE IF AT THE TIMES SUCH AWARDS WERE PAID THEY WERE LOANS BEARING INTEREST AT THE MAXIMUM PREVAILING RATE; "T" IS THE TOTAL NUMBER OF MONTHS IN THE RECIPIENT'S PERIOD OF OBLIGATED SERVICES; AND "S" IS THE NUMBER OF MONTHS OF SERVICE ACTUALLY RENDERED BY THE RECIPIENT. ANY AMOUNT WHICH THE PRESIDENT IS ENTITLED TO RECOVER UNDER THIS PARAGRAPH SHALL BE PAID WITHIN THE FIVE-YEAR PERIOD BEGINNING ON THE DATE THAT THE RECIPIENT FAILED TO COMPLY WITH THIS SERVICE CONDITION. NOTHING IN THE WRITTEN AGREEMENT SHALL AFFECT THE TERMS OF EMPLOYMENT OF THE INDIVIDUAL WHO SHALL NEGOTIATE, SEPARATE AND APART FROM THE PROGRAM, HIS OR HER SALARY AND OTHER FORMS OF EMPLOYMENT WITH AN AGENCY, INSTITUTION OR A PROGRAM IN WHICH HE OR SHE SHALL BE EMPLOYED.

ANY OBLIGATION TO COMPLY WITH SUCH PROVISIONS OF THIS SUBDIVISION SHALL BE CANCELLED UPON THE DEATH OF THE RECIPIENT. THE COMMISSIONER SHALL MAKE REGULATIONS TO PROVIDE FOR THE WAIVER OR SUSPENSION OF ANY FINANCIAL OBLIGATION WHICH WOULD INVOLVE EXTREME HARDSHIP.

F. A RECIPIENT OF AN AWARD SHALL REPORT ANNUALLY TO THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION, ON FORMS PRESCRIBED BY IT, AS TO THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE RECIPIENT BEGINS SUCH EMPLOYMENT AND CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE REQUIRED SERVICES. IF THE RECIPIENT SHALL FAIL TO FILE ANY REPORT REQUIRED PURSUANT TO THIS PARAGRAPH WITHIN THIRTY DAYS OF WRITTEN NOTICE TO THE RECIPIENT, MAILED TO THE ADDRESS SHOWN ON THE LAST APPLICATION FOR AN AWARD OR LAST REPORT FILED, WHICHEVER IS LATER, THE PRESIDENT MAY IMPOSE A FINE OF UP TO ONE THOUSAND DOLLARS. THE PRESIDENT SHALL HAVE THE DISCRETION TO WAIVE THE FILING OF A REPORT, EXCUSE A DELAY IN FILING OR A FAILURE TO FILE A REPORT, OR WAIVE OR REDUCE ANY FINE IMPOSED FOR GOOD CAUSE SHOWN.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that any rules or regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such effective date.

PART D

Section 1. The board of regents and the education department, in consultation with the department of agriculture and markets, shall develop and implement an outreach campaign encouraging elementary and secondary education students to enter the agricultural field and attend one of New York state's college agriculture education programs. Such outreach campaign shall continue until December 31, 2014 or until enrollment in undergraduate agricultural programs increases by twenty-five percent.

S 2. This act shall take effect immediately.

PART E

Section 1. Report on agriculture taxation. The commissioner of agriculture and markets shall study and make recommendations to the governor and the legislature within eighteen months of the effective date of this section on reducing the taxation for landowners who use land for the production of agricultural commodities within and outside agricultural districts, pursuant to article 25-AA of the agriculture and markets law.

S 2. This act shall take effect immediately.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through E of this act shall be as specifically set forth in the last section of such Parts.