

S. 5540

A. 7442

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

May 16, 2013

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

IN ASSEMBLY -- Introduced by M. of A. NOLAN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to assess, bi-sect and critique through truth in testing

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

1 Section 1. The education law is amended by adding a new article 7-B to
2 read as follows:

3 ARTICLE 7-B

4 TRUTH IN TESTING FOR THE COMMON CORE

5 SECTION 349-A. DEFINITIONS.

6 349-B. DISCLOSURE.

7 349-C. REPORTING.

8 349-D. APPEALS PROCESS.

9 349-E. STUDENTS WITH DISABILITIES.

10 349-F. ENGLISH LANGUAGE LEARNERS.

11 349-G. EXTENUATING CIRCUMSTANCES.

12 349-H. INDEPENDENT AUDIT.

13 349-I. STATE-WIDE SURVEY.

14 S 349-A. DEFINITIONS. AS USED IN THIS ARTICLE: 1. "TEST" OR "COMMON
15 CORE STATE TEST" MEANS ANY STATE CREATED, DEVELOPED OR ADMINISTERED TEST
16 GIVEN IN NEW YORK STATE TO STUDENTS IN ENGLISH LANGUAGE ARTS AND MATH-
17 EMATICS THAT TEST STUDENTS' KNOWLEDGE AND SKILLS RELATING TO COMMON CORE
18 STANDARDS.

19 2. "COMMON CORE" MEANS THE NEW YORK STATE P-12 COMMON CORE LEARNING
20 STANDARDS (CCLS) FOR ENGLISH LANGUAGE ARTS AND MATHEMATICS ON WHICH NEW
21 YORK STATE COMMON CORE TESTS WILL BE BASED.

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

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1 3. "COMMISSIONER" MEANS THE COMMISSIONER OF EDUCATION OF THE STATE OF
2 NEW YORK.

3 4. "TEST SUBJECT" MEANS ANY INDIVIDUAL TO WHOM A TEST IS ADMINISTERED.

4 5. "TEST AGENCY" MEANS ORGANIZATION, ASSOCIATION, CORPORATION, PART-
5 NERSHIP OR INDIVIDUAL THAT DEVELOPS, SPONSORS OR ADMINISTERS A TEST
6 PROVIDED HOWEVER THAT THE DEPARTMENT SHALL NOT BE INCLUDED WITHIN THE
7 DEFINITION OF A TEST AGENCY FOR PURPOSES OF THIS ARTICLE.

8 6. "TEST YEAR" MEANS THE TWELVE-MONTH PERIOD COMMENCING SEPTEMBER
9 FIRST DURING WHICH THE TEST AGENCY ADMINISTERS A PARTICULAR TEST.

10 7. "CHILD WITH A DISABILITY" OR A "STUDENT WITH A DISABILITY" SHALL BE
11 DEFINED IN SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER.

12 8. "ENGLISH LANGUAGE LEARNER" MEANS A TEST SUBJECT WHOSE NATIVE
13 LANGUAGE IS NOT ENGLISH.

14 9. "ANCHOR ITEMS" OR "LINKING ITEMS" MEANS ITEMS BASED ON THE SAME
15 MATERIAL IN DIFFERENT FORMS ON A TEST OR MULTIPLE TESTS GIVEN IN THE
16 SAME YEAR TO DIFFERENT GRADE LEVELS OR IN DIFFERENT YEARS TO THE SAME
17 GRADE LEVEL THAT ARE SCALED IN SUCH A WAY TO ENSURE THAT A GIVEN SCORE
18 REPRESENTS THE SAME LEVEL OF PERFORMANCE, REGARDLESS OF THE TEST FORM OR
19 YEAR, THAT ARE USED TO LINK DIFFERENT FORMS OF A TEST AND EQUATE THEM;
20 AND TO ENSURE THAT SUCH ITEMS REPRESENT A STABLE LEVEL OF DIFFICULTY
21 OVER TIME.

22 10. "FIELD TEST ITEMS" MEANS UN-SCORED ITEMS THAT ARE USED TO GATHER
23 DATA FOR USE ON FUTURE SCORED TESTS.

24 S 349-B. DISCLOSURE. 1. THIRTY DAYS AFTER THE ADMINISTRATION OF ANY
25 COMMON CORE STATE TEST IN ENGLISH LANGUAGE ARTS AND MATHEMATICS GIVEN TO
26 TEST SUBJECTS, FIFTY PERCENT OF THE TEST ITEMS, AFTER EXCLUDING ANCHOR
27 ITEMS OR LINKING ITEMS, AND FIELD TEST ITEMS SHALL BE RELEASED TO THE
28 PUBLIC.

29 2. AFTER THE SECOND YEAR OF ADMINISTRATION OF A COMMON CORE STATE
30 TEST, FULL DISCLOSURE OF ALL TEST ITEMS THAT ARE THE BASIS FOR TEST
31 SUBJECTS' SCORES, SHALL BE RELEASED TO THE PUBLIC. POSTING OF TEST ITEMS
32 AND CORRECT ANSWERS ON THE DEPARTMENT'S WEBSITE SHALL CONSTITUTE FULL
33 DISCLOSURE REQUIRED BY THIS SECTION.

34 S 349-C. REPORTING. THE COMMISSIONER, BEGINNING JULY FIRST, TWO THOU-
35 SAND FOURTEEN AND ANNUALLY THEREAFTER, SHALL REPORT TO THE GOVERNOR, THE
36 SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE
37 CHAIR OF THE ASSEMBLY HIGHER EDUCATION COMMITTEE AND THE CHAIR OF THE
38 SENATE HIGHER EDUCATION COMMITTEE ON: 1. THE EFFECTIVENESS OF COMMON
39 CORE STATE TESTS IN ENHANCING STUDENT LEARNING AND PERFORMANCE;

40 2. THE FAIRNESS AND APPROPRIATENESS OF TEST ITEMS FOR EACH GRADE
41 LEVEL, INCLUDING THE PERCENTAGE OF TEST ITEMS FOUND TO BE ABOVE GRADE
42 LEVEL;

43 3. THE CORRELATION BETWEEN TEST SCORES AND GRADE POINT AVERAGES OF
44 TEST SUBJECTS TAKING COMMON CORE STATE TESTS;

45 4. A STATISTICAL ANALYSIS OF STUDENT PERFORMANCE BASED ON SOCIOECONOM-
46 IC, GENDER, RACE AND ETHNICITY, AND REGIONAL FACTORS;

47 5. THE EFFECTIVENESS OF THE TEST AGENCY AS THE TEST DEVELOPMENT
48 VENDOR; AND

49 6. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER TO CONTINUE WITH
50 THE CURRENT TEST AGENCY, OR OTHER VENDOR AS A TEST AGENCY, OR UTILIZE
51 PARTNERSHIP FOR ASSESSMENT OF READINESS FOR COLLEGE AND CAREERS (PARCC)
52 TESTS IN TWO THOUSAND FIFTEEN.

53 S 349-D. APPEALS PROCESS. THE COMMISSIONER SHALL DEVELOP GUIDELINES
54 AND PROCEDURES FOR PARENTAL APPEALS OF TEST SUBJECTS' SCORES BASED ON
55 CLEAR PROOF THAT SUCH TEST SUBJECTS' SCORES ARE NOT REFLECTIVE OF SUCH
56 TEST SUBJECTS' ABILITIES. SUCH PROOF MAY INCLUDE BUT NOT BE LIMITED TO

1 GRADES RECEIVED ON CLASSROOM WORK DURING THE TEST YEAR OR SCORES
2 RECEIVED ON PAST COMMON CORE STATE TESTS GIVEN TO THE TEST SUBJECT IN
3 PREVIOUS YEARS.

4 S 349-E. STUDENTS WITH DISABILITIES. STUDENTS WITH DISABILITIES SHALL
5 BE PROVIDED WITH THE TESTING ACCOMMODATIONS SPECIFIED IN THEIR INDIVID-
6 UAL EDUCATION PROGRAMS (IEPS) OR THEIR SECTION FIVE HUNDRED FOUR ACCOM-
7 MODATION PLANS (504 PLANS).

8 S 349-F. ENGLISH LANGUAGE LEARNERS. THE COMMISSIONER SHALL DEVELOP
9 TESTING ACCOMMODATION GUIDELINES FOR ENGLISH LANGUAGE LEARNERS THAT MAY
10 INCLUDE TIME EXTENSIONS, SEPARATE TEST LOCATIONS, TRANSLATED EDITIONS,
11 BILINGUAL DICTIONARIES AND GLOSSARIES, ORAL TRANSLATIONS FOR LOWER-INCI-
12 DENT LANGUAGES AND WRITTEN RESPONSES IN NATIVE LANGUAGES.

13 S 349-G. EXTENUATING CIRCUMSTANCES. THE COMMISSIONER SHALL DEVELOP A
14 PROCEDURE TO ALLOW A TEST SUBJECT TO RECEIVE A ONE-TIME WAIVER FROM
15 TAKING A COMMON CORE STATE TEST BASED ON EXTENUATING CIRCUMSTANCES OR
16 GOOD CAUSE SHOWN PURSUANT TO THE COMMISSIONER'S REGULATIONS.

17 S 349-H. INDEPENDENT AUDIT. NOT LATER THAN MAY FIRST, TWO THOUSAND
18 FOURTEEN THE COMMISSIONER SHALL UNDERTAKE TO HAVE A COMPREHENSIVE INDE-
19 PENDENT AUDIT PERFORMED BY AN INDEPENDENT CONTRACTOR, NOT AFFILIATED
20 WITH A TEST AGENCY. SUCH CONTRACTOR SHALL HAVE A BACKGROUND AND EXPER-
21 TISE IN EDUCATIONAL TESTING. THE AUDIT SHALL REVIEW AND EVALUATE THE
22 COMMON CORE TESTING PROGRAM IN THE STATE. THE SCOPE OF THE AUDIT SHALL
23 INCLUDE BUT NOT BE LIMITED TO TEST PREPARATION; WHETHER TESTS WERE FAIR,
24 UNBIASED, PROPERLY PRE-TESTED AND GRADE APPROPRIATE, INCLUDING THE
25 PERCENTAGE OF TEST ITEMS FOUND TO BE ABOVE GRADE LEVEL; WHETHER THE
26 TESTS WERE PROPERLY ADMINISTERED AND SCORED; AND, HOW THE DEPARTMENT
27 DEALT WITH TEACHER, STUDENT AND PARENT CONCERNS, COMPLAINTS AND APPEALS.
28 SUCH AUDIT SHALL BE COMPLETED BY OCTOBER FIFTEENTH, TWO THOUSAND FOUR-
29 TEEN AND A COPY SHALL BE TRANSMITTED TO THE GOVERNOR, THE TEMPORARY
30 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE CHAIRS OF
31 THE HIGHER EDUCATION COMMITTEES IN EACH HOUSE.

32 S 349-I. STATE-WIDE SURVEY. 1. THE COMMISSIONER SHALL CONDUCT A
33 STATE-WIDE SURVEY OF SCHOOL ADMINISTRATORS AND TEACHERS RELATING TO THE
34 AMOUNT OF TIME SPENT ON COMMON CORE STATE TEST PREPARATION AND THE
35 IMPACT OF SUCH PREPARATION ON THE QUALITY OF INSTRUCTION. RESPONDENTS TO
36 SUCH SURVEY MAY CHOOSE TO REMAIN ANONYMOUS. THE SURVEY SHALL INCLUDE,
37 BUT NOT BE LIMITED TO QUESTIONS RELATED TO STUDENT AND TEACHER MORALE,
38 TEST PREPARATION TIME AND THE IMPACT ON CURRICULUM, THE AMOUNT OF TIME
39 TEACHERS SPEND ALIGNING CURRICULUM TO COMMON CORE STATE TESTS, THE OVER-
40 ALL IMPACT TESTING HAS ON THE CLASSROOM ENVIRONMENT AND ANY OTHER RELE-
41 VANT QUESTIONS REGARDING THE IMPACT OF COMMON CORE STATE EXAMS, INCLUD-
42 ING THE PERCENTAGE OF TEST ITEMS FOUND TO BE ABOVE GRADE LEVEL.

43 2. THIS SURVEY SHALL RESULT IN A REPORT BY THE DEPARTMENT THAT
44 COMPILES THE DATA RECEIVED FROM THE SURVEY AND THAT DETAILS THE RESULTS
45 AND PROVIDES CONCLUSIONS. SUCH REPORT SHALL BE SUBMITTED TO THE GOVER-
46 NOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE,
47 THE CHAIR OF THE ASSEMBLY HIGHER EDUCATION COMMITTEE AND THE CHAIR OF
48 THE SENATE HIGHER EDUCATION COMMITTEE BY DECEMBER THIRTY-FIRST, TWO
49 THOUSAND THIRTEEN.

50 S 2. This act shall take effect immediately, provided that any rules
51 or regulations necessary for the implementation of this act shall be
52 promulgated and take effect 180 days after its enactment.