

5124

2015-2016 Regular Sessions

I N S E N A T E

May 2, 2015

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

AN ACT to amend chapter 56 of the laws of 2015 amending the education law relating to annual performance reviews of classroom teachers and building principals, in relation to the public comment period; and to amend the education law, in relation to annual teacher and principal evaluations; to amend the education law, in relation to directing the release of test questions on statewide English language arts and mathematics examinations; and making an appropriation therefor; to amend the education law, in relation to the addition of student characteristics for consideration of student performance; to amend the education law, in relation to establishing a content review committee for the purpose of reviewing new standardized test items; to amend the education law, in relation to the board of regents; and to direct the commissioner of education to conduct a comprehensive review of the education standards administered by the state education department

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

1 Section 1. Section 1 of subpart E of part EE of chapter 56 of the laws
2 of 2015, amending the education law relating to annual performance
3 reviews of classroom teachers and building principals, is amended to
4 read as follows:
5 Section 1. Authority of the commissioner. Notwithstanding any
6 provisions of section 3012-c of the education law to the contrary, the
7 commissioner of the state education department, is hereby authorized and
8 directed to[, subject] PUBLISH DRAFT REGULATIONS IN THE STATE REGISTER
9 NO LATER THAN JUNE 30, 2015. SUBJECT to the provisions of section 207
10 of the education law, [adopt regulations of the commissioner] THE
11 COMMISSIONER SHALL ADOPT REGULATIONS and guidelines [no later than June
12 30, 2015] FORTY-FIVE DAYS AFTER DRAFT REGULATIONS ARE PUBLISHED IN THE
13 STATE REGISTER, to implement a statewide annual teacher and principal

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

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1 evaluation system in New York state pursuant to section 3012-d of the
2 education law, as added by this act, after consulting with experts and
3 practitioners in the fields of education, economics and psychometrics
4 and taking into consideration the parameters set forth in the letter
5 from the Chancellor of the Board of Regents and acting commissioner
6 dated December 31, 2014, to the New York State Director of State Oper-
7 ations. The commissioner shall also establish a process to accept public
8 comments, WHICH SHALL BE ASSESSED BY THE DEPARTMENT IN ACCORDANCE WITH
9 PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION 202 OF THE STATE ADMINIS-
10 TRATIVE PROCEDURE ACT and recommendations regarding the adoption of
11 regulations pursuant to section 3012-d of the education law and consult
12 in writing with the Secretary of the United States Department of Educa-
13 tion on weights, measures and ranking of evaluation categories and
14 subcomponents and shall release the response from the Secretary upon
15 receipt thereof but in any event prior to publication of the regulations
16 hereunder.

17 S 2. Subdivision 11 of section 3012-d of the education law, as added
18 by section 2 of subpart E of part EE of chapter 56 of the laws of 2015,
19 is amended to read as follows:

20 11. Notwithstanding any inconsistent provision of law, no school
21 district shall be eligible for an apportionment of general support for
22 public schools from the funds appropriated for the 2015--2016 school
23 year and any year thereafter in excess of the amount apportioned to such
24 school district in the respective base year unless such school district
25 has submitted documentation that has been approved by the commissioner
26 by [November fifteenth] DECEMBER FIFTEENTH, two thousand fifteen, or by
27 September first of each subsequent year, demonstrating that it has fully
28 implemented the standards and procedures for conducting annual teacher
29 and principal evaluations of teachers and principals in accordance with
30 the requirements of this section and the regulations issued by the
31 commissioner. Provided further that any apportionment withheld pursuant
32 to this section shall not occur prior to April first of the current year
33 and shall not have any effect on the base year calculation for use in
34 the subsequent school year. For purposes of this section, "base year"
35 shall mean the base year as defined in paragraph b of subdivision one of
36 section thirty-six hundred two of this chapter, and "current year" shall
37 mean the current year as defined in paragraph a of subdivision one of
38 section thirty-six hundred two of this chapter.

39 S 3. Section 305 of the education law is amended by adding a new
40 subdivision 51-a to read as follows:

41 51-A. ON OR BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN, AND EACH YEAR
42 THEREAFTER, THE COMMISSIONER SHALL RELEASE THE TEST QUESTIONS AND CORRE-
43 SPONDING CORRECT ANSWERS FROM EACH OF THE MOST RECENTLY ADMINISTERED
44 ENGLISH LANGUAGE ARTS AND MATHEMATICS EXAMINATIONS IN GRADES THREE
45 THROUGH EIGHT OF THAT YEAR. THE NUMBER OF QUESTIONS AND ANSWERS RELEASED
46 SHALL NOT BE SO SIGNIFICANT AS TO HINDER OR IMPAIR THE VALIDITY AND/OR
47 RELIABILITY OF FUTURE EXAMINATIONS BUT SHALL PROVIDE ENOUGH OF AN OVER-
48 VIEW OF EACH EXAMINATION SO THAT TEACHERS, ADMINISTRATORS, PRINCIPALS,
49 PARENTS AND STUDENTS CAN BE PROVIDED WITH SUFFICIENT FEEDBACK ON THE
50 TYPES OF QUESTIONS ADMINISTERED AND GENERAL STUDENT SUCCESS RATE IN
51 ANSWERING SUCH QUESTIONS CORRECTLY.

52 S 4. The sum of eight million four hundred thousand dollars
53 (\$8,400,000), or so much thereof as may be necessary, is hereby appro-
54 priated to the department of education out of any moneys in the state
55 treasury in the general fund to the credit of the state purposes
56 account, not otherwise appropriated, and made immediately available, for

1 the purpose of carrying out the provisions of this act. Such moneys
2 shall be payable on the audit and warrant of the comptroller on vouchers
3 certified or approved by the commissioner of education in the manner
4 prescribed by law.

5 S 5. Subparagraph 1 of paragraph a of subdivision 4 of section 3012-d
6 of the education law, as added by section 2 of subpart E of part EE of
7 chapter 56 of the laws of 2015, is amended to read as follows:

8 (1) For the first subcomponent, (A) for a teacher whose course ends in
9 a state-created or administered test for which there is a state-provided
10 growth model, such teacher shall have a state-provided growth score
11 based on such model, WHICH SHALL TAKE INTO CONSIDERATION CERTAIN STUDENT
12 CHARACTERISTICS, AS DETERMINED BY THE COMMISSIONER, INCLUDING BUT NOT
13 LIMITED TO STUDENTS WITH DISABILITIES, POVERTY, ENGLISH LANGUAGE LEARNER
14 STATUS AND PRIOR ACADEMIC HISTORY; and (B) for a teacher whose course
15 does not end in a state-created or administered test such teacher shall
16 have a student learning objective (SLO) consistent with a goal-setting
17 process determined or developed by the commissioner, that results in a
18 student growth score; provided that, for any teacher whose course ends
19 in a state-created or administered assessment for which there is no
20 state-provided growth model, such assessment must be used as the under-
21 lying assessment for such SLO;

22 S 6. Section 305 of the education law is amended by adding a new
23 subdivision 53 to read as follows:

24 53. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH A CONTENT
25 REVIEW COMMITTEE FOR THE PURPOSE OF REVIEWING ANY STANDARDIZED TEST
26 ITEMS AND/OR SELECTED PASSAGES FOR USE ON STATE ASSESSMENTS IN GRADES
27 THREE THROUGH EIGHT TO ENSURE THAT THEY ARE GRADE APPROPRIATE AND THAT
28 THE COMPLEXITY OF THE ITEMS AND PASSAGES ARE WITHIN GRADE-LEVEL EXPECTA-
29 TIONS. SUCH COMMITTEE SHALL ALSO ENSURE THAT ANY TEST ITEMS AND/OR
30 SELECTED PASSAGES ARE FAIR AND APPROPRIATELY MEASURE THE LEARNING STAND-
31 ARDS APPROVED BY THE BOARD OF REGENTS APPLICABLE TO SUCH SUBJECT AND/OR
32 GRADE LEVEL. SUCH COMMITTEE SHALL ALSO ENSURE THAT ADEQUATE AND APPRO-
33 PRIATE TIME IS GIVEN TO STUDENTS FOR THE ADMINISTRATION OF SUCH ASSESS-
34 MENTS, PROVIDED HOWEVER THAT SUBDIVISION FORTY-NINE OF THIS SECTION MUST
35 BE COMPLIED WITH. THE CONTENT REVIEW COMMITTEE SHALL INCLUDE CLASSROOM
36 TEACHERS AND EXPERIENCED EDUCATORS IN THE CONTENT AREA AND/OR GRADE
37 LEVEL OF THE ITEMS/PASSAGES BEING REVIEWED, INCLUDING TEACHERS OF
38 STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS.

39 S 7. Notwithstanding any other provision of law, rule or regulation to
40 the contrary, any previously entered into contract shall be amended to
41 incorporate the provisions of section six of this act and any required
42 approval of such contract amendments by a state agency shall be expe-
43 dited to ensure compliance with section six of this act.

44 S 8. Subdivisions 1 and 2 of section 202 of the education law, subdi-
45 vision 1 as amended by chapter 547 of the laws of 1993 and subdivision 2
46 as amended by chapter 296 of the laws of 1984 and as designated by chap-
47 ter 892 of the laws of 1985, are amended to read as follows:

48 1. The University of the State of New York shall be governed and all
49 its corporate powers exercised by a board of regents the number of whose
50 members shall at all times be four more than the number of the then
51 existing judicial districts of the state and shall not be less than
52 fifteen. The regents in office April first, nineteen hundred seventy-
53 four shall hold office, in the order of their election, for such times
54 that the term of one such regent will expire in each year on the first
55 day of April. Commencing April first, nineteen hundred seventy-four,
56 each regent shall be elected for a term of seven years, each such term

1 to expire on the first day of April. Commencing on April first, nineteen
2 hundred ninety-four, each regent shall be elected for a term of five
3 years, each such term to expire on the first day of April. Each regent
4 shall be elected by the legislature by concurrent resolution in the
5 preceding March, on or before the [first] SECOND Tuesday of such month.
6 [If, however, the legislature fails to agree on such concurrent resolu-
7 tion by the first Tuesday of such month, then the two houses shall meet
8 in joint session at noon on the second Tuesday of such month and proceed
9 to elect such regent by joint ballot.]

10 2. All vacancies in such office, either for full or unexpired terms,
11 shall be so filled that there shall always be in the membership of the
12 board of regents at least one resident of each of the judicial
13 districts. A vacancy in the office of regent for other cause than expi-
14 ration of term of service shall be filled for the unexpired term [by an
15 election at the session of the legislature immediately following such
16 vacancy in the manner prescribed in the preceding paragraph, unless the
17 legislature is in session when such vacancy occurs, in which case the
18 vacancy shall be filled by such legislature in the manner prescribed in
19 the preceding paragraph, except as hereinafter provided. However, if
20 such vacancy occurs after the second Tuesday in March and before a
21 resolution to adjourn sine die has been adopted by either house, then
22 the vacancy shall be filled by concurrent resolution, unless the legis-
23 lature fails to agree on such concurrent resolution within three legis-
24 lative days after its passage by one house, in which case the two houses
25 shall meet in joint session at noon on the next legislative day and
26 proceed to elect such regent by joint ballots;], provided, however, that
27 if the vacancy occur after the adoption by either house of a resolution
28 to adjourn sine die, then the vacancy shall be filled at the next
29 session of the legislature in the manner prescribed in the preceding
30 paragraph.

31 S 9. The commissioner of education shall conduct a comprehensive
32 review of the education standards administered by the state education
33 department and seek input from education stakeholders when conducting
34 such review. The review shall examine aspects of the learning standards
35 adopted by the board of regents in 2011 including but not limited to:
36 whether curriculum is aligned to standards, age and grade appropriate-
37 ness of such standards, and current progress of the implementation of
38 such standards. The review shall also contain recommendations on how to
39 improve the standards if deemed necessary. This review shall be
40 completed on or before June 30, 2016. Upon completion of the review the
41 board of regents shall consider the findings of the review and vote to
42 accept or reject any recommendations made by the commissioner within 60
43 days.

44 S 10. This act shall take effect immediately; provided, however, that
45 nothing in this act shall prevent or impair the commissioner of educa-
46 tion from complying with the provisions of section three of this act
47 prior to its effective date and provided further that, if this act takes
48 effect after June 1, 2015, the commissioner of education shall have
49 thirty days from such effective date to comply with the provisions of
50 section three of this act; and provided further that section six of this
51 act shall take effect December 1, 2015.