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

4227

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. DIAZ -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, J. RIVERA -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to enacting the preservation of quality education act

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 preservation of quality education act".

S 2. Legislative findings and purpose. The legislature supports the goal of achieving high standards in education. It finds, however, that standardized state-wide tests such as the regents examinations are not the only valid measurement of success in meeting high standards. In fact, a rigid application of a high stakes testing regime can bring unwanted and unanticipated harm to schools and school districts that successfully use multiple measures of student achievement to provide quality education that is accountable to parents and the public. Furthermore, high-stakes testing has been found to have a disproportionate negative impact on recent immigrants and English language learners, as well as on successful vocational education programs. The costs frequently associated with one-size-fits all statewide examinations - teaching that focuses narrowly on test preparation, an increased dropout rate, flight of creative quality teachers, and a paradoxical watering down of standards in an effort to prevent excessive dropouts - can outweigh the perceived benefits when a school or school district has achieved or shows promise towards achieving an otherwise successful method of teaching and assessing its students.

Thus, for some, the policy decision to impose the same test on all students in all districts, despite the great variety of educational experiences across more than 700 districts, is wrong. New York state has a long, rich history of local control in education, particularly in the

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

LBD04675-01-9

areas of curriculum and assessment. The purpose behind this tradition is to enable the consumers of education - parents - together with the professionals who must be directly responsive to those parents - local teachers and administrators - to determine what is best for the children in their school district. This legislation seeks to uphold that tradition while maintaining public accountability for schools' performance. The legislation enables parents to have the final say in whether their children must take high stakes standardized tests as part of their educational program, as long as the school, group of schools or school district has demonstrated its quality or possesses special promise. The parental opt-out procedure will allow exempted students in approved schools and districts to be awarded a state-endorsed diploma, provided the students meet the rigorous local requirements for graduation.

S 3. The education law is amended by adding a new section 319 to read as follows:

S 319. DESIGNATION OF QUALITY EDUCATIONAL UNITS AND PROCEDURES FOR WAIVER OF EXAMINATION REQUIREMENTS. 1. A SCHOOL DISTRICT, GROUP OF SCHOOLS OR SCHOOL EXHIBITING THE FOLLOWING CHARACTERISTICS OF QUALITY OR SPECIAL PROMISE OVER A THREE-YEAR PERIOD SHALL BE KNOWN AS A "QUALITY EDUCATIONAL UNIT": (A) SUCCESSFUL ALIGNMENT OF ITS INSTRUCTION AND ASSESSMENTS TO THE KEY IDEAS OF THE NEW YORK STATE LEARNING STANDARDS; (B) MAINTENANCE OF A COLLEGE ADMISSION RATE BY ITS GRADUATES EQUAL TO OR GREATER THAN THE STATEWIDE AVERAGE FOR SUCH ADMISSION, OR IN THE CASE OF A GROUP OF SCHOOLS OR SCHOOL IN A BIG FIVE CITY (NEW YORK CITY, BUFFALO, ROCHESTER, SYRACUSE AND YONKERS) THE AVERAGE FOR SUCH ADMISSION IN THE CITY IN WHICH THE GROUP OF SCHOOLS OR SCHOOL IS LOCATED; OR IN THE CASE OF A VOCATIONAL EDUCATION OR PROFESSIONAL INTERNSHIP BASED PROGRAM, A POST-SECONDARY JOB PLACEMENT RATE EQUAL TO OR GREATER THAN THE STATEWIDE AVERAGE FOR SUCH PLACEMENT, OR IN THE CASE OF A GROUP OF SCHOOLS OR SCHOOL IN A BIG FIVE CITY THE AVERAGE FOR SUCH PLACEMENT IN THE CITY IN WHICH THE GROUP OF SCHOOLS OR SCHOOL IS LOCATED; (C) MAINTENANCE OF AN ANNUAL DROPOUT RATE EQUAL TO OR LOWER THAN THE STATEWIDE ANNUAL DROPOUT RATE, OR IN THE CASE OF A GROUP OF SCHOOLS OR SCHOOL IN A BIG FIVE CITY, THE ANNUAL DROPOUT RATE OF THE CITY IN WHICH THE GROUP OF SCHOOLS OR SCHOOL IS LOCATED; AND (D) MAINTENANCE OF A RECORD OF ATTENDANCE EQUAL TO OR GREATER THAN THE STATEWIDE AVERAGE ATTENDANCE RATE, OR IN THE CASE OF A GROUP OF SCHOOLS OR SCHOOL IN A BIG FIVE CITY, THE AVERAGE ATTENDANCE RATE OF THE CITY IN WHICH THE GROUP OF SCHOOLS OR SCHOOL IS LOCATED.

2. (A) THE BOARD OF TRUSTEES OF ANY SCHOOL DISTRICT MAY PETITION THE DEPARTMENT FOR RECOGNITION OF THE ENTIRE SCHOOL DISTRICT, A GROUP OF SCHOOLS OR A SCHOOL AS A QUALITY EDUCATIONAL UNIT AND FOR AN ACCOMPANYING WAIVER FOR THE STUDENTS THEREIN FROM HAVING TO TAKE AND PASS THE NEW YORK STATE STANDARDIZED EXAMINATIONS FOR GRADUATION OR PROMOTION, PROVIDED THAT THE MAJORITY OF PARENT-VOTERS RESIDING IN THE QUALITY EDUCATIONAL UNIT SHALL HAVE ELECTED TO OPT-OUT FROM THE STATEWIDE STANDARDIZED EXAMINATIONS. AS USED IN THIS SECTION, THE NEW YORK STATE, OR STATEWIDE, STANDARDIZED EXAMINATIONS MEAN THE FIVE STATEWIDE HIGH SCHOOL REGENTS EXAMINATIONS AND ANY STATEWIDE EXAMINATIONS USED FOR GRADE PROMOTION DECISIONS. THE DEPARTMENT SHALL DEEM A QUALITY EDUCATIONAL UNIT TO BE ANY SCHOOL DISTRICT, GROUP OF SCHOOLS OR SCHOOL THAT THE BOARD OF TRUSTEES OF THE SCHOOL DISTRICT DEMONSTRATES TO THE DEPARTMENT BY A PREPONDERANCE OF THE EVIDENCE CONSTITUTES A QUALITY EDUCATIONAL UNIT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION. THE DEPARTMENT SHALL GRANT TO A QUALITY EDUCATIONAL UNIT THE PETITIONED-FOR WAIVER FROM THE STATEWIDE STANDARDIZED EXAMINATIONS.

(B) A QUALITY EDUCATIONAL UNIT MAY INCLUDE A NEWLY FORMED SCHOOL AMONG A GROUP OF SCHOOLS APPLYING TO BECOME A QUALITY EDUCATIONAL UNIT PROVIDED THAT SUCH NEW SCHOOLS ARE APPROVED FOR INCLUSION BY THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT SUBMITTING THE QUALITY EDUCATIONAL UNIT APPLICATION AND BY THE EXISTING SCHOOLS IN THE PROSPECTIVE QUALITY EDUCATIONAL UNIT.

(C) THE DESIGNATION OF A QUALITY EDUCATIONAL UNIT AND ACCOMPANYING EXAMINATION WAIVER SHALL LAST FOR A TERM OF FOUR YEARS FROM THE DATE OF DESIGNATION AND GRANTING OF THE WAIVER BY THE DEPARTMENT. THE BOARD OF TRUSTEES OF THE SCHOOL DISTRICT CAN PETITION FOR RENEWAL OF THE DESIGNATION AND ACCOMPANYING WAIVER AT THE END OF THE FOUR-YEAR TERM.

(D) SHOULD THE DEPARTMENT DENY A PETITION BY THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT FOR DESIGNATION AND WAIVER, THE BOARD OF TRUSTEES SHALL HAVE THE RIGHT TO APPEAL THE RULING TO A THREE-PERSON ARBITRATION PANEL. THE RULING OF THE ARBITRATION PANEL SHALL BE BINDING ON THE DEPARTMENT.

3. (A) AT THE ELECTION FOR MEMBERS OF A SCHOOL BOARD THAT OCCURS IMMEDIATELY PRIOR TO PETITIONING FOR THE DESIGNATION OR RENEWAL OF DESIGNATION OF A SCHOOL DISTRICT, GROUP OF SCHOOLS OR SCHOOL AS A QUALITY EDUCATIONAL UNIT, THE PETITIONING BOARD OF TRUSTEES SHALL SUBMIT THE QUESTION FOR ALL PARENTS AND GUARDIANS WITH STUDENTS IN THE PROSPECTIVE QUALITY EDUCATIONAL UNIT AS TO WHETHER THE PARENTS AND GUARDIANS DESIRE TO OPT-OUT OF THE NEW YORK STATE STANDARDIZED EXAMINATIONS ON BEHALF OF THEIR CHILDREN. SHOULD A MAJORITY OF PARENT AND GUARDIAN VOTERS IN THE PROSPECTIVE QUALITY EDUCATIONAL UNIT CHOOSE TO OPT-OUT OF THE STATEWIDE STANDARDIZED EXAMINATIONS AND THE DEPARTMENT APPROVES THE DESIGNATION OF THE QUALITY EDUCATIONAL UNIT, THE SCHOOL OR GROUP OF SCHOOLS IN THE UNIT SHALL NOT BE REQUIRED TO ADMINISTER THE WAIVED EXAMINATIONS AND THE STUDENTS IN THOSE SCHOOLS OR GROUPS OF SCHOOLS SHALL NOT BE REQUIRED TO PASS THE WAIVED EXAMINATIONS FOR GRADUATION OR PROMOTION. STUDENTS IN THE APPROVED QUALITY EDUCATIONAL UNIT SHALL RECEIVE A REGENTS ENDORSED DIPLOMA UPON COMPLETION OF ALL OTHER GRADUATION REQUIREMENTS MANDATED BY THE LOCAL SCHOOL DISTRICT, THE QUALITY EDUCATIONAL UNIT, AND THIS CHAPTER.

(B) FOR SCHOOL DISTRICTS LOCATED WITHIN THE CITY OF NEW YORK, A SPECIAL ELECTION WILL BE HELD AT EACH SCHOOL THAT IS TO BE PART OF THE QUALITY EDUCATIONAL UNIT. THE SPECIAL ELECTION SHALL BE HELD WITHIN ONE WEEK OF THE DATE OF THE FILING WITH THE DEPARTMENT OF THE PETITION FOR RECOGNITION AS A QUALITY EDUCATIONAL UNIT. THE SPECIAL ELECTION SHALL POSE THE QUESTION FOR ALL PARENTS AND GUARDIANS WITH STUDENTS IN THE PROSPECTIVE QUALITY EDUCATIONAL UNIT AS TO WHETHER THE PARENTS AND GUARDIANS DESIRE TO OPT-OUT OF THE NEW YORK STATE STANDARDIZED EXAMINATIONS ON BEHALF OF THEIR CHILDREN. SHOULD A MAJORITY OF THE VOTERS CHOOSE TO OPT-OUT OF THE STATEWIDE STANDARDIZED EXAMINATIONS AND THE DEPARTMENT APPROVES THE DESIGNATION AS A QUALITY EDUCATIONAL UNIT, THE STUDENTS IN SUCH SCHOOL SHALL NOT BE REQUIRED TO TAKE THE STANDARDIZED EXAMINATIONS.

S 4. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.