

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.