

7303--A

2015-2016 Regular Sessions

I N A S S E M B L Y

May 4, 2015

---

Introduced by M. of A. NOLAN, KAMINSKY, FAHY, PAULIN, JAFFEE, LIFTON, LINARES, McDONALD, MOSLEY, OTIS, RUSSELL, RYAN, SCHIMEL, ZEBROWSKI -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; to amend the education law, in relation to the teacher observations category; 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 to the provisions of section 207 of the education

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

1 law, adopt regulations of the commissioner and guidelines no later than  
2 [June 30] NOVEMBER 17, 2015, to implement a statewide annual teacher and  
3 principal evaluation system in New York state pursuant to section 3012-d  
4 of the education law, as added by this act, after consulting with  
5 experts and practitioners in the fields of education, economics and  
6 psychometrics and taking into consideration the parameters set forth in  
7 the letter from the Chancellor of the Board of Regents and acting  
8 commissioner dated December 31, 2014, to the New York State Director of  
9 State Operations. The commissioner shall also establish a process to  
10 accept public comments 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] EVERY  
21 school district shall [be eligible for an apportionment of general  
22 support for public schools from the funds appropriated for the  
23 2015--2016 school year and any year thereafter in excess of the amount  
24 apportioned to such school district in the respective base year unless  
25 such school district has submitted documentation that has been] SUBMIT  
26 DOCUMENTATION TO BE approved by the commissioner by November fifteenth,  
27 two thousand [fifteen] SIXTEEN, or by September first of each subsequent  
28 year, demonstrating that it has fully implemented the standards and  
29 procedures for conducting annual teacher and principal evaluations of  
30 teachers and principals in accordance with the requirements of this  
31 section and the regulations issued by the commissioner. [Provided  
32 further that any apportionment withheld pursuant to this section shall  
33 not occur prior to April first of the current year and shall not have  
34 any effect on the base year calculation for use in the subsequent school  
35 year. For purposes of this section, "base year" shall mean the base year  
36 as defined in paragraph b of subdivision one of section thirty-six  
37 hundred two of this chapter, and "current year" shall mean the current  
38 year as defined in paragraph a of subdivision one of section thirty-six  
39 hundred two of this chapter.]

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

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

55 S 4. The sum of eight million four hundred thousand dollars  
56 (\$8,400,000), or so much thereof as may be necessary, is hereby appro-

1 priated to the department of education out of any moneys in the state  
2 treasury in the general fund to the credit of the state purposes  
3 account, not otherwise appropriated, and made immediately available, for  
4 the purpose of carrying out the provisions of subdivision 51-a of  
5 section 305 of the education law, as added by section three of this act,  
6 and in order to create and print more forms of state standardized  
7 assessments in order to eliminate stand-alone multiple choice field  
8 tests and release a significant amount of test questions. Such moneys  
9 shall be payable on the audit and warrant of the comptroller on vouchers  
10 certified or approved by the commissioner of education in the manner  
11 prescribed by law.

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

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

29 S 6. Paragraph b of subdivision 4 of section 3012-d of the education  
30 law, as added by section 2 of subpart E of part EE of chapter 56 of the  
31 laws of 2015, is amended to read as follows:

32 b. Teacher observations category. The observations category for teach-  
33 ers shall be based on a state-approved rubric and shall include up to  
34 three subcomponents. Such category must include: [(1)] a subcomponent  
35 based on classroom observations conducted by a principal or other  
36 trained administrator and [must] MAY also include [(2)], AS PART OF A  
37 VOLUNTARY DEMONSTRATION PROJECT THAT MAY BE ESTABLISHED BY THE DEPART-  
38 MENT, a subcomponent based on classroom observations by an impartial  
39 independent trained evaluator or evaluators selected by the district. An  
40 independent trained evaluator may be employed within the school  
41 district, but not the same school building, as the teacher being evalu-  
42 ated. Such category may also include a subcomponent based on classroom  
43 observations conducted by a trained peer teacher rated effective or  
44 highly effective from the same school or from another school in the  
45 district.

46 S 7. Section 305 of the education law is amended by adding a new  
47 subdivision 53 to read as follows:

48 53. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH A  
49 CONTENT REVIEW COMMITTEE FOR THE PURPOSES OF REVIEWING ALL STANDARDIZED  
50 TEST ITEMS AND/OR SELECTED PASSAGES USED ON ENGLISH LANGUAGE ARTS AND  
51 MATHEMATICS STATE ASSESSMENTS FOR GRADES THREE THROUGH EIGHT TO ENSURE:  
52 (A) THEY ARE GRADE LEVEL APPROPRIATE, IN GENERAL; (B) THEY ARE PRESENTED  
53 AT A READABILITY LEVEL THAT IS GRADE-LEVEL APPROPRIATE; (C) THEY ARE  
54 WITHIN GRADE-LEVEL EXPECTATIONS; AND (D) THEY APPROPRIATELY MEASURE THE  
55 LEARNING STANDARDS APPROVED BY THE BOARD OF REGENTS APPLICABLE TO SUCH  
56 SUBJECT AND/OR GRADE LEVEL. THE REVIEW OF SUCH ITEMS AND PASSAGES SHALL

1 BE CONDUCTED PRIOR TO THEIR USE IN SUCH ASSESSMENTS PROVIDED HOWEVER,  
2 FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR ONLY, IF  
3 SUCH REQUIREMENT WOULD PREVENT THE ABILITY OF SUCH ASSESSMENTS TO BE  
4 ADMINISTERED, THEN ITEMS OR PASSAGES THAT HAVE NOT BEEN REVIEWED MAY BE  
5 USED. PROVIDED FURTHER, THE CONTENT REVIEW COMMITTEE SHALL REVIEW ANY  
6 NEW STANDARDIZED TEST ITEMS AND/OR SELECTED PASSAGES PRIOR TO THEIR USE  
7 IN SUCH ASSESSMENTS. SUCH COMMITTEE SHALL ALSO ENSURE THAT ANY NEW TEST  
8 ITEMS AND/OR SELECTED PASSAGES ARE FAIR AND APPROPRIATELY MEASURE THE  
9 LEARNING STANDARDS APPROVED BY THE BOARD OF REGENTS APPLICABLE TO SUCH  
10 SUBJECT AND/OR GRADE LEVEL. SUCH COMMITTEE SHALL ALSO ENSURE THAT  
11 ADEQUATE AND APPROPRIATE TIME IS GIVEN TO STUDENTS FOR THE ADMINIS-  
12 TRATION OF SUCH ASSESSMENTS, PROVIDED HOWEVER THAT SUBDIVISION  
13 FORTY-NINE OF THIS SECTION MUST BE COMPLIED WITH. THE CONTENT REVIEW  
14 COMMITTEE SHALL INCLUDE CLASSROOM TEACHERS AND EXPERIENCED EDUCATORS IN  
15 THE CONTENT AREA AND/OR GRADE LEVEL OF THE ITEMS/PASSAGES BEING  
16 REVIEWED, INCLUDING TEACHERS OF STUDENTS WITH DISABILITIES AND ENGLISH  
17 LANGUAGE LEARNERS.

18 S 8. Notwithstanding any other provision of law, rule or regulation to  
19 the contrary, any previously entered into contract by the education  
20 department related to standardized test items and/or passages for use on  
21 state assessments in grades three through eight shall be amended to  
22 incorporate the provisions of section seven of this act and any required  
23 approval of such contract amendments by a state agency shall be expe-  
24 dited to ensure compliance with section seven of this act.

25 S 9. The commissioner of education shall conduct a comprehensive  
26 review of the education standards administered by the state education  
27 department and seek input from education stakeholders when conducting  
28 such review. The review shall examine aspects of the learning standards  
29 adopted by the board of regents in 2011 including but not limited to:  
30 whether curriculum materials and modules are aligned to standards and  
31 fully available to school districts, age and grade appropriateness of  
32 such standards, and current progress of the implementation of such stan-  
33 dards. The review shall also contain recommendations on how to modify  
34 the standards if deemed necessary and appropriate provided such recom-  
35 mended modifications shall be in accordance with federal requirements.  
36 This review shall be completed on or before June 30, 2016. Upon  
37 completion of the review the board of regents shall consider the find-  
38 ings of the review and vote to accept or reject any recommendations made  
39 by the commissioner within 60 days.

40 S 10. Paragraph d of subdivision 2 of section 3012-d of the education  
41 law, as added by section 2 of subpart E of part EE of chapter 56 of the  
42 laws of 2015, is amended to read as follows:

43 d. "State-designed supplemental assessment" shall mean a selection of  
44 state tests or assessments developed or designed by the state education  
45 department, or that the state education department purchased or acquired  
46 from (i) another state; (ii) an institution of higher education; or  
47 (iii) a commercial or not-for-profit entity, provided that such entity  
48 must be objective and may not have a conflict of interest or appearance  
49 of a conflict of interest; such definition may include tests or assess-  
50 ments that have been previously designed or acquired by local districts,  
51 but only if the state education department significantly modifies growth  
52 targets or scoring bands for such tests or assessments or otherwise  
53 adapts the test or assessment to the state education department's  
54 requirements AND MAY INCLUDE OTHER LOCALLY SELECTED MEASURES OF STUDENT  
55 ACHIEVEMENT PROVIDED THAT SUCH MEASURES ARE APPROVED BY THE DEPARTMENT.

1 S 11. This act shall take effect immediately; provided, however, that  
2 nothing in this act shall prevent or impair the commissioner of educa-  
3 tion from complying with the provisions of section three of this act  
4 prior to its effective date and provided further that, if this act takes  
5 effect after June 1, 2015, the commissioner of education shall have  
6 thirty days from such effective date to comply with the provisions of  
7 section three of this act; and provided further that section seven of  
8 this act shall take effect December 1, 2015.