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

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:

Section 1. Section 1 of subpart E of part EE of chapter 56 of the laws of 2015, amending the education law relating to annual performance reviews of classroom teachers and building principals, is amended to read as follows:

Section 1. Authority of the commissioner. Notwithstanding any provisions of section 3012-c of the education law to the contrary, the commissioner of the state education department, is hereby authorized and directed to[, subject] PUBLISH DRAFT REGULATIONS IN THE STATE REGISTER NO LATER THAN JUNE 30, 2015. SUBJECT to the provisions of section 207 of the education law, [adopt regulations of the commissioner] THE COMMISSIONER SHALL ADOPT REGULATIONS and guidelines [no later than June 30, 2015] FORTY-FIVE DAYS AFTER DRAFT REGULATIONS ARE PUBLISHED IN THE 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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evaluation system in New York state pursuant to section 3012-d of the education law, as added by this act, after consulting with experts and practitioners in the fields of education, economics and psychometrics and taking into consideration the parameters set forth in the letter from the Chancellor of the Board of Regents and acting commissioner dated December 31, 2014, to the New York State Director of State Operations. The commissioner shall also establish a process to accept public comments, WHICH SHALL BE ASSESSED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION FIVE OF SECTION 202 OF THE STATE ADMINISTRATIVE PROCEDURE ACT and recommendations regarding the adoption of regulations pursuant to section 3012-d of the education law and consult in writing with the Secretary of the United States Department of Education on weights, measures and ranking of evaluation categories and subcomponents and shall release the response from the Secretary upon receipt thereof but in any event prior to publication of the regulations hereunder.

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

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

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

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

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

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

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

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

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

53. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH A CONTENT REVIEW COMMITTEE FOR THE PURPOSE OF REVIEWING ANY STANDARDIZED TEST ITEMS AND/OR SELECTED PASSAGES FOR USE ON STATE ASSESSMENTS IN GRADES THREE THROUGH EIGHT TO ENSURE THAT THEY ARE GRADE APPROPRIATE AND THAT THE COMPLEXITY OF THE ITEMS AND PASSAGES ARE WITHIN GRADE-LEVEL EXPECTATIONS. SUCH COMMITTEE SHALL ALSO ENSURE THAT ANY TEST ITEMS AND/OR SELECTED PASSAGES ARE FAIR AND APPROPRIATELY MEASURE THE LEARNING STANDARDS APPROVED BY THE BOARD OF REGENTS APPLICABLE TO SUCH SUBJECT AND/OR GRADE LEVEL. SUCH COMMITTEE SHALL ALSO ENSURE THAT ADEQUATE AND APPROPRIATE TIME IS GIVEN TO STUDENTS FOR THE ADMINISTRATION OF SUCH ASSESSMENTS, PROVIDED HOWEVER THAT SUBDIVISION FORTY-NINE OF THIS SECTION MUST BE COMPLIED WITH. THE CONTENT REVIEW COMMITTEE SHALL INCLUDE CLASSROOM TEACHERS AND EXPERIENCED EDUCATORS IN THE CONTENT AREA AND/OR GRADE LEVEL OF THE ITEMS/PASSAGES BEING REVIEWED, INCLUDING TEACHERS OF STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS.

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

S 8. Subdivisions 1 and 2 of section 202 of the education law, subdivision 1 as amended by chapter 547 of the laws of 1993 and subdivision 2 as amended by chapter 296 of the laws of 1984 and as designated by chapter 892 of the laws of 1985, are amended to read as follows:

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

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

2. All vacancies in such office, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the board of regents at least one resident of each of the judicial districts. A vacancy in the office of regent for other cause than expiration of term of service shall be filled for the unexpired term [by an election at the session of the legislature immediately following such vacancy in the manner prescribed in the preceding paragraph, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such legislature in the manner prescribed in the preceding paragraph, except as hereinafter provided. However, if such vacancy occurs after the second Tuesday in March and before a resolution to adjourn sine die has been adopted by either house, then the vacancy shall be filled by concurrent resolution, unless the legislature fails to agree on such concurrent resolution within three legislative days after its passage by one house, in which case the two houses shall meet in joint session at noon on the next legislative day and proceed to elect such regent by joint ballots;], provided, however, that if the vacancy occur after the adoption by either house of a resolution to adjourn sine die, then the vacancy shall be filled at the next session of the legislature in the manner prescribed in the preceding paragraph.

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

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