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

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2015-2016 Regular Sessions

I N S E N A T E

June 12, 2015

Introduced by Sens. FLANAGAN, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 to the provisions of section 207 of the education law, adopt regulations of the commissioner and guidelines no later than June 30, 2015 AND SHALL THEREAFTER PUBLISH SUCH REGULATIONS FOR A COMMENT PERIOD OF FORTY-FIVE DAYS AFTER WHICH SUCH REGULATIONS MAY BE AMENDED; to implement a statewide annual teacher and principal evaluation system in New York state pursuant to section 3012-d of the educa-

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

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tion 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 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 and a new subdivision 11-a is added 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] FEBRUARY FIFTEENTH, two thousand [fifteen] SIXTEEN, 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.

11-A. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO PROVIDE A WAIVER FROM FULLY IMPLEMENTING THE STANDARDS AND PROCEDURES FOR CONDUCTING ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF TEACHERS AND PRINCIPALS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AND THE REGULATIONS BY THE COMMISSIONER BY FEBRUARY FIFTEENTH, TWO THOUSAND SIXTEEN, BASED ON HARDSHIP.

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 BY JULY FIRST, TWO THOUSAND FIFTEEN, AND EACH YEAR THEREAFTER, THE COMMISSIONER SHALL RELEASE THE 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 appro-

priated 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 subdivision 51-a of section 305 of the education law, as added by section three of this act, and in order to create and print more forms of state standardized assessments in order to eliminate stand-alone multiple choice field tests and release a significant amount of test questions. 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, PRIOR ACADEMIC HISTORY AND WHICH SHALL IDENTIFY EDUCATORS WHOSE STUDENT'S GROWTH IS WELL ABOVE OR WELL BELOW AVERAGE COMPARED TO SIMILAR STUDENTS FOR A TEACHER'S OR PRINCIPAL'S STUDENTS AFTER THE CERTAIN STUDENT CHARACTERISTICS LISTED ABOVE ARE TAKEN INTO ACCOUNT; 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 two new subdivisions 53 and 54 to read as follows:

53. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH A CONTENT REVIEW COMMITTEE FOR THE PURPOSES OF REVIEWING ALL STANDARDIZED TEST ITEMS AND/OR SELECTED PASSAGES USED ON ENGLISH LANGUAGE ARTS AND MATHEMATICS STATE ASSESSMENTS FOR GRADES THREE THROUGH EIGHT TO ENSURE: (A) THEY ARE GRADE LEVEL APPROPRIATE, IN GENERAL; (B) THEY ARE PRESENTED AT A READABILITY LEVEL THAT IS GRADE LEVEL APPROPRIATE; (C) THEY ARE WITHIN GRADE LEVEL EXPECTATION; AND (D) THEY APPROPRIATELY MEASURE THE LEARNING STANDARDS APPROVED BY THE BOARD OF REGENTS APPLICABLE TO SUCH SUBJECT AND/OR GRADE LEVEL. THE REVIEW OF SUCH ITEMS AND PASSAGES SHALL BE CONDUCTED PRIOR TO THEIR USE IN SUCH ASSESSMENTS PROVIDED HOWEVER, FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR ONLY, IF SUCH REQUIREMENT WOULD PREVENT THE ABILITY OF SUCH ASSESSMENTS TO BE ADMINISTERED, THEN ITEMS OR PASSAGES THAT HAVE NOT BEEN REVIEWED MAY BE USED. PROVIDED FURTHER, THE CONTENT REVIEW COMMITTEE SHALL REVIEW ANY NEW STANDARDIZED TEST ITEMS AND/OR SELECTED PASSAGES PRIOR TO THEIR USE IN STATE ASSESSMENTS. SUCH COMMITTEE SHALL ALSO ENSURE THAT ANY NEW 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.

54. A. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, NO TEACHER, PRINCIPAL, OR SUPERINTENDENT SHALL BE REQUIRED TO SIGN A CONFIDENTIALITY AGREEMENT WITH THEIR RESPECTIVE SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, OR THE DEPARTMENT THAT PREVENTS SUCH TEACHER, PRINCIPAL, OR SUPERINTENDENT FROM DISCUSSING THE CONTENTS OF ANY ENGLISH LANGUAGE ARTS AND MATHEMATICS ASSESSMENTS IN GRADES THREE THROUGH EIGHT.

B. THE COMMISSIONER SHALL AMEND AND/OR MODIFY ANY CURRENT CONFIDENTIALITY AGREEMENT TO REMOVE ANY PROVISIONS THAT PREVENT TEACHERS, PRINCIPALS, OR SUPERINTENDENTS FROM DISCUSSING THE CONTENTS OF ANY ENGLISH LANGUAGE ARTS AND MATHEMATICS ASSESSMENTS IN GRADES THREE THROUGH EIGHT.

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. 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 materials and modules are aligned to standards and fully available to school districts, 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 modify the standards if deemed necessary and appropriate provided such recommended modifications shall be in accordance with federal requirements. 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 9. 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.