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I N   S E N A T E

February 27, 2014

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Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law and the general construction law, in relation to abolishing the board of regents and transferring the power and duties thereof to the commissioner of education and providing for the appointment of such commissioner by the governor; and to repeal certain provisions of the education law relating to the board of regents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 4 of section 2 of the education law is amended  
2     to read as follows:  
3     4. Regents. The term "regents" means [board of regents of The Univer-  
4     sity of the State of New York] THE COMMISSIONER.  
5     S 2. Section 101 of the education law is amended to read as follows:  
6     S 101. Education department; regents of the university. There shall  
7     continue to be in the state government an education department. The  
8     department is charged with the general management and supervision of all  
9     public schools and all of the educational work of the state, including  
10    the operations of The University of the State of New York and the exer-  
11    cise of all the functions of the education department, of The University  
12    of the State of New York, [of the regents of the university] and of the  
13    commissioner of education and the performance of all their powers and  
14    duties, which were transferred to the education department by section  
15    three hundred twelve of the state departments law or shall have been  
16    prescribed by law before March sixteenth, nineteen hundred twenty-seven,  
17    whether in terms vested in such department or university or in any sub-  
18    department, division or bureau thereof or in such commissioner, board or  
19    officer, and such functions, powers and duties shall continue to be  
20    vested in the education department continued by this chapter and shall  
21    continue to be exercised and performed therein by or through the appro-  
22    priate officer, sub-department, division or bureau thereof, together  
23    with such functions, powers and duties as hereafter may be conferred or  
24    imposed upon such department by law. All the provisions of this chap-

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

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1 ter, in so far as they are not inconsistent with the provisions of this  
2 chapter as hereby amended or may be made applicable, shall apply to the  
3 education department continued by this chapter as hereby amended and to  
4 The University of the State of New York, [the board of regents of the  
5 university,] the commissioner of education and to the divisions, bureaus  
6 and officers in such department. The head of the department shall  
7 [continue to] be the [regents of The University of the State of New  
8 York, who shall appoint, and at pleasure may remove, the] commissioner  
9 of education. The commissioner shall continue to be the chief adminis-  
10 trative officer of the department. The [regents also] COMMISSIONER may  
11 appoint and, at pleasure, remove a deputy commissioner of education, who  
12 shall perform such duties as the [regents] COMMISSIONER may assign to  
13 him OR HER by rule and who, in the absence or disability of the commis-  
14 sioner or when a vacancy exists in the office of commissioner, shall  
15 exercise and perform the functions, powers and duties conferred or  
16 imposed on the commissioner by this chapter. [The regents of The  
17 University of the State of New York shall continue to constitute a board  
18 and The University of the State of New York, which was continued under  
19 such name by section two of article eleven of the constitution, shall  
20 continue to be governed and all its corporate powers to be exercised by  
21 such board.]

22 S 3. The education law is amended by adding a new section 101-c to  
23 read as follows:

24 S 101-C. REGENTS; ABOLISHED. 1. THE REGENTS OF THE UNIVERSITY OF THE  
25 STATE OF NEW YORK IS HEREBY ABOLISHED, AND ALL THE FUNCTIONS AND POWERS  
26 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF SUCH REGENTS ARE  
27 TRANSFERRED AND ASSIGNED TO, ASSUMED BY AND DEVOLVED UPON THE COMMIS-  
28 SIONER OF EDUCATION.

29 2. WHEN THE TERM "REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK"  
30 OR ANY EQUIVALENT EXPRESSION THEREOF IS USED IN THIS CHAPTER, OR ANY  
31 OTHER LAW, RULE OR REGULATION, SUCH TERM SHALL BE DEEMED TO MEAN AND  
32 REFER TO THE COMMISSIONER OF EDUCATION.

33 S 4. Section 102 of the education law is amended to read as follows:

34 S 102. Associate and assistant commissioners. The commissioner [of  
35 education] shall appoint[, subject to the approval of the regents,] such  
36 associate and assistant commissioners as he OR SHE shall deem necessary  
37 for the proper organization and general classification of the work of  
38 the department, and assign to such associate and assistant commissioners  
39 the work which shall be under their respective supervision.

40 S 5. Section 103 of the education law is amended to read as follows:

41 S 103. Divisions of department. By action of the [regents upon the  
42 recommendation of the] commissioner [of education] the department may be  
43 divided into divisions and bureaus. By like action new divisions and  
44 bureaus may be created and divisions and bureaus may be consolidated or  
45 abolished, and the administrative work of the department assigned to the  
46 several divisions and bureaus.

47 S 6. Section 104 of the education law is amended to read as follows:

48 S 104. Other officers and employees. The commissioner [of education,  
49 subject to the approval of the regents,] shall have power[, in conformi-  
50 ty with their rules,] to appoint all other needed officers and employees  
51 and fix their titles, duties and salaries.

52 S 7. Section 105 of the education law is amended to read as follows:

53 S 105. Removals and suspensions. [With the approval of the regents,  
54 the] THE commissioner [of education] may, at his OR HER pleasure, remove  
55 from office any assistant commissioner, or other appointive officer or  
56 employee; and[, when the regents are not in session, the commissioner

1 may, during his pleasure,] suspend, without salary, any such officer or  
2 employee[, but not longer than till the adjournment of the succeeding  
3 meeting of the regents].

4 S 8. Section 106 of the education law is amended to read as follows:

5 S 106. Joint seal. The [regents of the university upon the recommen-  
6 dation of the] commissioner [of education] shall adopt, and may modify  
7 at any time, a seal, which shall be used in common as the seal of the  
8 education department and of the university; and copies of all records  
9 thereof and of all acts, orders, decrees and decisions made by [the  
10 regents or by] the commissioner [of education], and of [their] HIS OR  
11 HER official papers, and of the drafts or machine copies of any of the  
12 foregoing, may be authenticated under the said seal and shall then be  
13 evidence equally with and in like manner as the originals.

14 S 9. Section 108 of the education law is amended to read as follows:

15 S 108. State education building. The state education building shall  
16 be occupied exclusively by the education department, including the  
17 university, with the state library, the state museum, and its other  
18 divisions and bureaus, together with such other work with which the  
19 commissioner [of education and the regents have] HAS official  
20 relations[, as the regents may, in their discretion, provide for there-  
21 in], and such building and the offices of such department shall be main-  
22 tained at state expense under the charge and care of such department.

23 S 10. Section 201 of the education law is amended to read as follows:

24 S 201. Corporate name and objects. The corporation created in the year  
25 seventeen hundred eighty-four under the name of The Regents of the  
26 University of the State of New York, is hereby continued under the name  
27 of The University of the State of New York, AND SHALL BE SUBJECT TO THE  
28 SUPERVISION AND CONTROL OF THE COMMISSIONER. Its objects shall be to  
29 encourage and promote education, to visit and inspect its several insti-  
30 tutions and departments, to distribute to or expand or administer for  
31 them such property and funds as the state may appropriate therefor or as  
32 the university may own or hold in trust or otherwise, and to perform  
33 such other duties as may be intrusted to it. The said corporation shall  
34 have power to take, hold and administer real and personal property and  
35 the income thereof in trust for any educational, scientific, historical  
36 or other purpose within the jurisdiction of the [regents of The Univer-  
37 sity of the State of New York] COMMISSIONER.

38 S 11. Sections 202, 203, 204, 205, 206 and 207 of the education law  
39 are REPEALED.

40 S 12. Section 301 of the education law is REPEALED.

41 S 13. Section 302 of the education law is amended to read as follows:

42 S 302. How chosen. The commissioner [of education] shall be [elected  
43 by a majority vote of the regents. Residence without the state of New  
44 York shall not disqualify him from election] APPOINTED BY THE GOVERNOR  
45 WITH THE ADVICE AND CONSENT OF THE SENATE. THE COMMISSIONER SHALL SERVE  
46 AT THE PLEASURE OF THE GOVERNOR.

47 S 14. Section 303 of the education law is REPEALED.

48 S 15. The general construction law is amended by adding a new section  
49 42-a to read as follows:

50 S 42-A. REGENTS. WHEREVER THE TERM "REGENTS OF THE UNIVERSITY OF THE  
51 STATE OF NEW YORK" OR ANY EQUIVALENT EXPRESSION THEREOF IS USED IN ANY  
52 PROVISION OF LAW, RULE OR REGULATION, SUCH TERM SHALL BE DEEMED TO MEAN  
53 AND REFER TO THE COMMISSIONER OF EDUCATION.

54 S 16. Board of regents abolished. The Regents of the University of the  
55 State of New York is abolished. When the term "Regents of the University  
56 of the State of New York" or any equivalent expression thereof is used

1 in the education law or any other law, such regents shall be deemed to  
2 mean and refer to the commissioner of education.

3 S 17. Transfer of functions. All of the functions and powers possessed  
4 by all and all of the obligations and duties of the board of regents are  
5 transferred and assigned to, assumed by and devolved upon the commis-  
6 sioner of education.

7 S 18. Continuity of authority. For the purposes of succession to all  
8 duties, functions, powers and obligations transferred and assigned to,  
9 devolved upon and assumed by the commissioner of education pursuant to  
10 this act, such commissioner shall be deemed and held to constitute the  
11 continuation of the board of regents.

12 S 19. Continuance of acts and decisions. All acts and decisions of the  
13 board of regents pertaining to the duties and functions transferred and  
14 assigned by this act, in force at the time of such transfer, assignment,  
15 assumption or devolution shall continue in full force and effect as acts  
16 and decisions of the commissioner of education until duly modified or  
17 abrogated by such commissioner.

18 S 20. Continuance of rules and regulations. All rules, regulations,  
19 acts, determinations and decisions of the board of regents pertaining to  
20 the functions transferred and assigned in this act, in force at the time  
21 of such transfer, assignment, assumption or devolution shall continue in  
22 force and effect as rules, regulations, acts, determinations and deci-  
23 sions of the commissioner of education in accordance with the context  
24 thereof, until duly modified or abrogated by such commissioner.

25 S 21. Completion of unfinished business. Any business or other matter  
26 undertaken or commenced by the board of regents pertaining to or  
27 connected with the duties, functions, powers and obligations transferred  
28 and assigned by this act to the commissioner of education, and pending  
29 on the effective date of this act, may be conducted and completed by the  
30 commissioner of education in the same manner and under the same terms  
31 and conditions and with the same effect as if conducted and completed by  
32 the board of regents.

33 S 22. Terms occurring in laws, contracts and other documents. Whenever  
34 the board of regents is referred to or designated in any law, contract  
35 or document pertaining to the duties, functions, powers and obligations  
36 transferred and assigned by this act to the commissioner of education,  
37 such reference or designation shall be deemed to mean and refer to such  
38 commissioner.

39 S 23. Pending actions and proceedings. No action pending at the time  
40 when this act shall take effect, brought by or against the board of  
41 regents shall be affected by any provision of this act, but the same may  
42 be prosecuted or defended by the education department and the commis-  
43 sioner of education, and the proper party shall, upon application to the  
44 court, be substituted as a party.

45 S 24. Codification of changes. The commissioner of education shall  
46 prepare or cause to be prepared for submission to the next regular  
47 session of the legislature a bill or bills which amend, add to or repeal  
48 appropriate laws so as to make such laws consistent with the provisions  
49 of this act.

50 S 25. This act shall take effect on the same date as a concurrent  
51 resolution amending the constitution, entitled "CONCURRENT RESOLUTION OF  
52 THE SENATE AND ASSEMBLY proposing amendments to section 4 of article 5,  
53 section 4 of article 8 and section 2 of article 11 of the constitution,  
54 in relation to abolishing The Regents of the University of the State of  
55 New York".