

STATE OF NEW YORK

1747

2021-2022 Regular Sessions

IN SENATE

January 14, 2021

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

providing that the Board of Regents, the Commissioner of Education, and the Education Department shall have the responsibility to respond to the current COVID-19 pandemic, terminating certain Executive Orders issued by the Governor pursuant to section 29-a of the Executive Law, and providing for the procedure to be followed regarding future Executive Orders regarding elementary, secondary, post-secondary schools, State Universities, and other educational entities

- 1 WHEREAS, the New York State Board of Regents is responsible for the
2 general supervision of all educational activities in the State of New
3 York including all elementary, secondary, and post-secondary schools
4 pursuant to Article XI, Section 2 of the New York State Constitution;
5 and
6 WHEREAS, the New York State Board of Regents appoints the Commissioner
7 of Education to be the chief administrative officer of the Department of
8 Education pursuant to Article V, Section 4 of the New York State Consti-
9 tution; and
10 WHEREAS, the Commissioner of Education is the "chief executive officer
11 of the state system of education," has "general supervision of all
12 schools and institutions ... related to education," and has the respon-
13 sibility to "advise and guide the school officers of all districts and
14 cities of the State in relation to their duties and the general manage-
15 ment of the schools under their control" pursuant to section 305 of the
16 Education Law; and
17 WHEREAS, elected local school boards throughout New York State and the
18 Mayor in the City of New York are charged with the administrative
19 responsibility for managing and operating individual school districts
20 consistent with the guidance and direction provided by the Board of
21 Regents, the Commissioner of Education, and the Education Department;
22 and

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

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1 WHEREAS, the Governor was given the authority pursuant to Executive
2 Law section 29-a by Executive Order to temporarily suspend any laws,
3 ordinances, rules or regulations during a State disaster emergency,
4 provided that any such action by subject to the State Constitution, and
5 further subject to the requirement that "when practicable, specialists
6 shall be assigned to assist with the related emergency actions to avoid
7 needless adverse effects resulting from such suspensions,"; and

8 WHEREAS, the Board of Regents, the Commissioner of Education, and the
9 Education Department, consistent with their independent role under the
10 State Constitution and their cadre of specialists, should assert primary
11 responsibility, subject to duly enacted legislation, for responding to
12 the current COVID-19 pandemic, including deciding when and under what
13 conditions local schools should reopen; and

14 WHEREAS, the State Legislature has the authority to terminate by
15 concurrent resolution Executive Orders issued under section 29-a of the
16 Executive Law; now, therefore, be it

17 RESOLVED, (if the Assembly concur) that the Board of Regents, the
18 Commissioner of Education, and the Education Department shall have the
19 responsibility, subject to duly enacted legislation, to respond to the
20 current COVID-19 pandemic, including deciding when and under what condi-
21 tions elementary, secondary, post-secondary schools, State Universities,
22 and other educational entities subject to their jurisdiction should
23 reopen and operate; and be it further

24 RESOLVED, (if the Assembly concur) that any Executive Orders issued by
25 the Governor that are inconsistent in any manner with the decisions of
26 the Board of Regents, the Commissioner of Education, and the Education
27 Department regarding elementary, secondary, post-secondary schools,
28 State Universities, and other educational entities subject to their
29 jurisdiction are hereby terminated; and be it further

30 RESOLVED, (if the Assembly concur) that the Governor shall retain the
31 authority to issue Executive Orders regarding elementary, secondary,
32 post-secondary schools, State Universities, and other educational enti-
33 ties subject to the jurisdiction of the Board of Regents, the Commis-
34 sioner of Education, and the Education Department to the extent that the
35 Governor is requested in writing by the Board of Regents to exercise the
36 authority to suspend temporarily specific laws, rules, or regulations
37 during a declared state of emergency for a period not to exceed 30 days;
38 and be it further

39 RESOLVED, (if the Assembly concur) that a copy of any request by the
40 Board of Regents to the Governor to exercise any emergency authority
41 shall be simultaneously sent to the temporary President of the Senate,
42 the Minority Leader of the Senate, the Speaker of the Assembly, the
43 Minority Leader of the Assembly, and the chairs and ranking members of
44 the Senate and Assembly education committees.