

2122

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sens. GOLDEN, LANZA, SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to transferring the authority to appoint the commissioner of education from the board of regents to the governor

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

1 Section 1. Section 101 of the education law is amended to read as
2 follows:
3 S 101. Education department; regents of the university. There shall
4 continue to be in the state government an education department. The
5 department is charged with the general management and supervision of all
6 public schools and all of the educational work of the state, including
7 the operations of The University of the State of New York and the exer-
8 cise of all the functions of the education department, of The University
9 of the State of New York, of the regents of the university and of the
10 commissioner of education and the performance of all their powers and
11 duties, which were transferred to the education department by section
12 three hundred twelve of the state departments law or shall have been
13 prescribed by law before March sixteenth, nineteen hundred twenty-seven,
14 whether in terms vested in such department or university or in any sub-
15 department, division or bureau thereof or in such commissioner, board or
16 officer, and such functions, powers and duties shall continue to be
17 vested in the education department continued by this chapter and shall
18 continue to be exercised and performed therein by or through the appro-
19 priate officer, sub-department, division or bureau thereof, together
20 with such functions, powers and duties as hereafter may be conferred or
21 imposed upon such department by law. All the provisions of this chap-
22 ter, in so far as they are not inconsistent with the provisions of this
23 chapter as hereby amended or may be made applicable, shall apply to the

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

LBD07680-01-9

1 education department continued by this chapter as hereby amended and to
2 The University of the State of New York, the board of regents of the
3 university, the commissioner of education and to the divisions, bureaus
4 and officers in such department. The head of the department shall
5 continue to be the regents of The University of the State of New York[,
6 who shall appoint, and at pleasure may remove, the commissioner of
7 education]. The commissioner SHALL BE APPOINTED BY THE GOVERNOR, BY AND
8 WITH THE ADVICE AND CONSENT OF THE SENATE. THE COMMISSIONER shall
9 continue to be the chief administrative officer of the department. The
10 [regents] GOVERNOR also may appoint and, at pleasure, remove a deputy
11 commissioner of education, who shall perform such duties as the regents
12 may assign to him OR HER by rule and who, in the absence or disability
13 of the commissioner or when a vacancy exists in the office of commis-
14 sioner, shall exercise and perform the functions, powers and duties
15 conferred or imposed on the commissioner by this chapter. The regents
16 of The University of the State of New York shall continue to constitute
17 a board and The University of the State of New York, which was continued
18 under such name by section two of article eleven of the constitution,
19 shall continue to be governed and all its corporate powers to be exer-
20 cised by such board.

21 S 2. Section 302 of the education law is amended to read as follows:

22 S 302. How chosen. The commissioner of education shall be [elected by
23 a majority vote of the regents] APPOINTED BY THE GOVERNOR, BY AND WITH
24 THE ADVICE AND CONSENT OF THE SENATE. Residence without the state of
25 New York shall not disqualify him from election.

26 S 3. Section 303 of the education law is amended to read as follows:

27 S 303. Term of office. The commissioner of education shall serve
28 during the pleasure of the [board of regents] GOVERNOR.

29 S 4. This act shall take effect immediately upon the adoption by the
30 people of a concurrent resolution entitled "CONCURRENT RESOLUTION OF THE
31 SENATE AND ASSEMBLY proposing an amendment to section 4 of article 5 of
32 the constitution, in relation to the appointment of the commissioner of
33 education".