STATE OF NEW YORK

9079--A

IN ASSEMBLY

January 16, 2020

Introduced by M. of A. DARLING -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to repeal a chapter of the laws of 2019, authorizing the commissioner of education and the chancellor of the board of regents, with the approval of the board of regents, to appoint monitors to oversee the Hempstead union free school district as proposed in legislative bills numbers S.6559 and A.8403; authorizing the commissioner of education to appoint a monitor to oversee the Hempstead union free school district and establishing the powers and duties of such monitor; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. A chapter of the laws of 2019, authorizing the commissioner of education and the chancellor of the board of regents, with the approval of the board of regents, to appoint monitors to oversee the Hempstead union free school district as proposed in legislative bills numbers S.6559 and A.8403, is REPEALED.

§ 2. Definitions. As used in this act:

(a) "Commissioner" shall mean the commissioner of education;

(b) "Department" shall mean the state education department;

(c) "Board of education" or "board" shall mean the board of education of the Hempstead union free school district;

(d) "School district" or "district" shall mean the Hempstead union free school district;

(e) "Superintendent" shall mean the superintendent of the Hempstead union free school district; and

(f) "Relatives" shall mean a Hempstead union free school district board member's spouse, domestic partner, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of a current board member or a board member's spouse or domestic partner.

§ 3. Appointment of a monitor. The commissioner shall appoint one monitor to provide oversight, guidance and technical assistance related

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

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to the educational and fiscal policies, practices, programs and decisions of the school district, the board of education and the superintendent.

1. The monitor, to the extent practicable, shall have experience in school district finances and one or more of the following areas:

(a) elementary and secondary education;

(b) the operation of school districts in New York;

(c) educating students with disabilities; and

(d) educating English language learners.

2. The monitor shall be a non-voting ex-officio member of the board of education. The monitor shall be an individual who is not a resident, employee of the school district or relative of a board member of the school district at the time of his or her appointment.

3. The reasonable and necessary expenses incurred by the monitor while performing his or her official duties shall be paid by the school district. Notwithstanding any other provision of law, the monitor shall be entitled to defense and indemnification by the school district to the same extent as a school district employee.

§ 4. Meetings. 1. The monitor shall be entitled to attend all meetings of the board, including executive sessions; provided however, such monitor shall not be considered for purposes of establishing a quorum of the board. The school district shall fully cooperate with the monitor including, but not limited to, providing such monitor with access to any necessary documents and records of the district including access to electronic information systems, databases and planning documents, consistent with all applicable state and federal statutes including, but not limited to, Family Education Rights and Privacy Act (FERPA) (20 U.S.C. §1232g) and section 2-d of the education law.

2. The board, in consultation with the monitor, shall adopt a conflict of interest policy that complies with all existing applicable laws, rules and regulations that ensures its board members and administration act in the school district's best interest and comply with applicable legal requirements. The conflict of interest policy shall include, but not be limited to:

(a) a definition of the circumstances that constitute a conflict of interest;

(b) procedures for disclosing a conflict of interest to the board;

(c) a requirement that the person with the conflict of interest not be present at or participate in board deliberations or votes on the matter giving rise to such conflict, provided that nothing in this subdivision shall prohibit the board from requesting that the person with the conflict of interest present information as background or answer questions at a board meeting prior to the commencement of deliberations or voting relating thereto;

(d) a prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict; and

(e) a requirement that the existence and resolution of the conflict be documented in the board's records, including in the minutes of any meeting at which the conflict was discussed or voted upon.

§ 5. Public hearings. 1. The monitor shall schedule three public hearings to be held within sixty days of his or her appointment, which shall allow public comment from the district's residents, students, parents, employees, board members and administration.

(a) The first hearing shall take public comment on existing statutory and regulatory authority of the commissioner, the department and the

board of regents regarding school district governance and intervention under applicable state law and regulations, including but not limited to, sections 306, 211-c, and 211-f of the education law.

(b) The second hearing shall take public comment on the academic performance of the district.

(c) The third hearing shall take public comment on the fiscal performance of the district.

2. The board of education and the monitor shall consider these public comments when developing the financial plan and academic improvement plan under this act.

§ 6. Financial plan. 1. No later than November first, two thousand twenty, the board of education and the monitor shall develop a proposed financial plan for the two thousand twenty--two thousand twenty-one school year and the four subsequent school years. The financial plan shall ensure that annual aggregate operating expenses shall not exceed annual aggregate operating revenues for such school year and that the major operating funds of the district be balanced in accordance with generally accepted accounting principles. The financial plan shall include statements of all estimated revenues, expenditures, and cash flow projections of the district.

2. If the board of education and the monitor agree on all the elements of the proposed financial plan, the board of education shall conduct a public hearing on the plan and consider the input of the community. The proposed financial plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed financial plan has been approved by the board of education, such plan shall be submitted by the monitor to the commissioner for approval and shall be deemed approved for the purposes of this act.

3. If the board of education and the monitor do not agree on all the elements of the proposed financial plan, the board of education shall conduct a public hearing on the proposed plan that details the elements of disagreement between the monitor and the board, including documented justification for such disagreements and any requested amendments from the monitor. The proposed financial plan, elements of disagreement, and requested amendments shall be made public on the district's website at least three business days before such public hearing. After considering the input of the community, the board may alter the proposed financial plan and the monitor may alter his or her requested amendments, and the monitor shall submit the proposed financial plan, his or her amendments to the plan, and documentation providing justification for such disagreements and amendments to the commissioner no later than December first, two thousand twenty. By January fifteenth, two thousand twenty-one, the commissioner shall approve the proposed plan with any of the monitor's proposed amendments, or make other modifications, he or she deems appropriate. The board of education shall provide the commissioner with any information he or she requests to approve such plan within three business days of such request. Upon the approval of the commissioner, the financial plan shall be deemed approved for purposes of this act.

§ 7. Academic improvement plan. 1. No later than November first, two thousand twenty, the board of education and the monitor shall develop an academic improvement plan for the district's two thousand twenty--two thousand twenty-one school year and the four subsequent school years. The academic improvement plan shall contain a series of programmatic recommendations designed to improve academic performance over the period of the plan in those academic areas that the commissioner deems to be in

need of improvement which shall include addressing the provisions contained in any action plan set forth by the department.

2. If the board of education and the monitor agree on all the elements of the proposed academic improvement plan, the board of education shall conduct a public hearing on the plan and consider the input of the community. The proposed academic improvement plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed academic improvement plan has been approved by the board of education, such plan shall be submitted by the monitor to the commissioner for approval and shall be deemed approved for the purposes of this act.

3. If the board of education and the monitor do not agree on all the elements of the proposed academic improvement plan, the board of education shall conduct a public hearing on the proposed plan that details the elements of disagreement between the monitor and the board, including documented justification for such disagreements and any requested amendments from the monitor. The proposed academic improvement plan, elements of disagreement, and requested amendments shall be made public on the district's website at least three business days before such public hearing. After considering the input of the community, the board may alter the proposed academic improvement plan and the monitor may alter his or her requested amendments, and the monitor shall submit the proposed academic improvement plan, his or her amendments to the plan, and documentation providing justification for such disagreements and amendments to the commissioner no later than December first, two thousand twenty. By January fifteenth, two thousand twenty-one, the commissioner shall approve the proposed plan with any of the monitor's proposed amendments, or make other modifications, he or she deems appropriate. The board of education shall provide the commissioner with any information he or she requests to approve such plan within three business days of such request. Upon the approval of the commissioner, the academic improvement plan shall be deemed approved for purposes of this act.

§ 8. Fiscal and operational oversight. 1. The board of education shall annually submit the school district's proposed budget for the next succeeding school year to the monitor no later than March first prior to the school district's annual budget vote. The monitor shall review the proposed budget to ensure that it is balanced within the context of revenue and expenditure estimates and mandated programs. The monitor shall also review the proposed budget to ensure that it, to the greatest extent possible, is consistent with the district academic improvement plan and financial plan developed and approved pursuant to this act. The monitor shall present his or her findings to the board of education and the commissioner no later than forty-five days prior to the date scheduled for the school district's annual budget vote. The commissioner shall require the board of education to make amendments to the proposed budget consistent with any recommendations made by the monitor if the commissioner determines such amendments are necessary to comply with the financial plan and academic improvement plan under this act. The school district shall make available on the district's website: the initial proposed budget, the monitor's findings, and the final proposed budget at least seven days prior to the date of the school district's budget hearing. In the event of a revote, the board of education, in conjunction with the monitor, shall develop and submit the school district's proposed budget for the next succeeding school year to the commissioner no later than seven days prior to the budget hearing. The board of

education shall provide the commissioner with any information he or she requests in order to make a determination pursuant to this subdivision within three business days of such request.

2. The district shall provide quarterly reports to the monitor and annual reports to the commissioner and board of regents on the academic, fiscal, and operational status of the school district. In addition, the monitor shall provide semi-annual reports to the commissioner, board of regents, the governor, the temporary president of the senate, and the speaker of the assembly on the academic, fiscal, and operational status of the school district. Such semi-annual report shall include all the contracts that the district entered into throughout the year.

3. The monitor shall have the authority to disapprove travel outside the state paid for by the district.

4. The monitor shall work with the district's shared decision-making committee as defined in 8 NYCRR 100.11 in developing the academic improvement plan, financial plan, district goals, implementation of district priorities and budgetary recommendations.

5. The monitor shall assist in resolving any disputes and conflicts, including but not limited to, those between the superintendent and the board of education and among the members of the board of education.

6. The monitor may recommend, and the board shall consider by vote of a resolution at the next scheduled meeting of the board, cost saving measures including, but not limited to, shared service agreements.

§ 9. The commissioner may overrule any decision of the monitor, except for collective bargaining agreements negotiated in accordance with article 14 of the civil service law, if he or she deems that such decision is not aligned with the financial plan, academic improvement plan, or the school district's budget.

§ 10. The monitor may notify the commissioner and the board in writing when he or she deems the district is violating an element of the financial plan or academic improvement plan in this act. Within twenty days, the commissioner shall determine whether the district is in violation of any of the elements of the plans highlighted by the monitor and shall order the district to comply immediately with the plans and remedy any such violation. The school district shall suspend all actions related to the potential violation of the financial plan or academic improvement plan until the commissioner issues a determination.

§ 11. Nothing in this act shall be construed to abrogate the duties and responsibilities of the school district consistent with applicable state law and regulations.

§ 12. This act shall take effect immediately; provided, however, section one of this act shall take effect on the same date as a chapter of the laws of 2019, authorizing the commissioner of education and the chancellor of the board of regents, with the approval of the board of regents, to appoint monitors to oversee the Hempstead union free school district, as proposed in legislative bills numbers S.6559 and A.8403, takes effect; and provided further, however sections two, three, four, five, six, seven, eight, nine, ten and eleven of this act shall expire and be deemed repealed June 30, 2025.