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

WHEREAS, the New York State Board of Regents is responsible for the general supervision of all educational activities in the State of New York including all elementary, secondary, and post-secondary schools pursuant to Article XI, Section 2 of the New York State Constitution; and

WHEREAS, the New York State Board of Regents appoints the Commissioner of Education to be the chief administrative officer of the Department of Education pursuant to Article V, Section 4 of the New York State Constitution; and

WHEREAS, the Commissioner of Education is the "chief executive officer of the state system of education," has "general supervision of all schools and institutions ... related to education," and has the responsibility to "advise and guide the school officers of all districts and cities of the State in relation to their duties and the general management of the schools under their control" pursuant to section 305 of the Education Law; and

WHEREAS, elected local school boards throughout New York State and the Mayor in the City of New York are charged with the administrative responsibility for managing and operating individual school districts consistent with the guidance and direction provided by the Board of Regents, the Commissioner of Education, and the Education Department; and

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

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

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

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

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

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

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

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